CITY COUNCIL REGULAR MEETING AGENDA

REGULAR COUNCIL MEETING
TUESDAY
APRIL 5, 2022

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
3:00 P.M.

All City Council Meetings are live streamed on the city's website (https://www.flagstaff.az.gov/1461/Streaming-City-Council-Meetings)

PUBLIC COMMENT

Verbal public comments may be given through a virtual public comment platform or in-person

If you want to provide a verbal comment during the Council Meeting, use the link below to join the virtual public comment room.

VIRTUAL PUBLIC COMMENT WAITING ROOM

Written comments may be submitted to publiccomment@flagstaffaz.gov. All comments submitted via email will be considered written comments and will be documented into the record as such.

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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 through other technological means.

MAYOR DEASY
VICE MAYOR DAGGETT
COUNCILMEMBER ASLAN
COUNCILMEMBER MCCARTHY
COUNCILMEMBER SALAS
COUNCILMEMBER SHIMONI
COUNCILMEMBER SWEET

3. PLEDGE OF ALLEGIANCE, MISSION STATEMENT, AND LAND ACKNOWLEDGEMENT

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life for all.

LAND ACKNOWLEDGEMENT

The Flagstaff City Council humbly acknowledges the ancestral homelands of this area's Indigenous nations and original stewards. These lands, still inhabited by Native descendants, border mountains sacred to Indigenous peoples. We honor them, their legacies, their traditions, and their continued contributions. We celebrate their past, present, and future generations who will forever know this place as home.

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. **Consideration and Acceptance:** Resignation of Vice Mayor Becky Daggett effective April 4, 2022.

STAFF RECOMMENDED ACTION:

Accept the resignation of Vice Mayor Becky Daggett effective April 4, 2022.

6. Selection of Vice Mayor

STAFF RECOMMENDED ACTION:

Appoint a Vice Mayor

7. PROCLAMATIONS AND RECOGNITIONS

A. **Proclamation:** Coconino Community College 30th Anniversary

B. **Proclamation:** Flagstaff Kite Day

C. **Proclamation:** NAEYC Week of the Young Child

8. COVID-19 UPDATE

A. COVID-19 Update

STAFF RECOMMENDED ACTION:

This presentation is for informational purposes only.

9. COUNCIL LIAISON REPORTS

10. LIQUOR LICENSE PUBLIC HEARINGS

A. **Consideration and Action on Liquor License Application:** Christian Sheffield Day, "Sky Island Kombucha," 1515 N. Main Street, Series 03, New License.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

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

B. **Consideration and Action on Liquor License Application:** Andrea Lewkowitz "Hyatt Place Flagstaff," 397 S. Malpais Lane, Series 11 (Hotel/Motel), New License.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

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

C. **Consideration and Action on Liquor License Application:** Javier Magallanes Melendez, "Bow Wow Street Dogs and Grill," 1000 N. Humphreys #243, Series 12, New Application.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

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

11. CONSENT ITEMS

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

A. **Consideration and Approval of Final Plat:** PZ-21-00193-02 Craig and Christina Clark request Final Plat approval of a 2-lot subdivision titled Final Modified Clark Subdivision, at 6275 N Rain Valley Rd (APN 113-05-019) on an existing 10-acre parcel in the Rural Residential (RR) zone.

STAFF RECOMMENDED ACTION:

Approve the Final Plat and authorize the Mayor to sign the plat when notified by staff that the documents are ready for recording

B. **Consideration and Approval of Contract:** Approve the Cooperative Purchase Contract with Empire Southwest, LLC, for the purchase of one (1) 2022 CAT 950GC Wheel Loader in the amount of $289,719.74 to be reimbursed 100% by the Arizona Department of Forestry and Fire Management.

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with Empire Southwest, LLC for the purchase of one (1) 2022 CAT 950GC Wheel Loader in the amount of $289,719.74 to be reimbursed 100% by the Arizona Department of Forestry and Fire Management; and
2. Authorize the City Manager to execute the necessary documents.

C. **Consideration and Approval of Contract:** Cooperative Purchase Contract for Real Estate Appraisal Valuations with Appraisal Technology, LLC in the amount of $61,500.00 in addition to other fees and taxes for property acquisitions necessary for the Milton Road and University Avenue Right of Way Capital Project.

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract for Real Estate Appraisal Valuation Services with Appraisal Tenchology, LLC in the amount of $61,500.00, in addition to other fees and taxes for appraisals of property acquisitions necessary for the Milton Road and University Avenue Right of Way Project; and
2. Authorize the City Manager to execute the necessary documents.

12. REGULAR AGENDA

A. **Consideration and Adoption of Resolution No. 2022-09:** A resolution of the Flagstaff City Council, approving an Intergovernmental Agreement between Coconino County and the City of Flagstaff for Prescribed Fire Operations

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-09 by title only
2) City Clerk reads Resolution No. 2022-09 by title only (if approved above)
3) Adopt Resolution No. 2022-09

B. **Consideration and Adoption of Resolution No. 2022-11:** A resolution of the Flagstaff City Council, authorizing the grant agreement for an Arizona State Parks Heritage Fund - Environmental Education grant.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-11 by title only
2) City Clerk reads Resolution No. 2022-11 by title only (if approved above)
3) Adopt Resolution No.2022-11

C. **Consideration and Adoption of Resolution No 2022-13:** Approval of an Intergovernmental Agreement between Mountain Line and the City of Flagstaff for project management of the First Mile Last Mile grant

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-13 by title only
2) City Clerk reads Resolution No. 2022-13 by title only (if approved above)
3) Adopt Resolution No.2022-13

D. **Consideration and Adoption of Resolution No. 2022-12:** A resolution approving an Intergovernmental Agreement between the City of Phoenix Police Department and the City of Flagstaff Police Department for the receipt of funding for the investigation of Internet crimes against children.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-12 by title only
2) City Clerk reads Resolution No. 2022-12 by title only (if approved above)
3) Adopt Resolution No. 2022-12

E. **Consideration and Adoption of Ordinance No. 2022-07:** An ordinance of the Council of the City of Flagstaff, Arizona approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Financing Authority of Arizona from its Clean Water Revolving Fund program; delegating the determination of certain matters relating thereto to the Mayor, the City Manager and the Management Services Director of the City; providing the transfer of certain moneys and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such loan agreement and this ordinance and establishing an effective date.

STAFF RECOMMENDED ACTION:

At the April 5, 2022 Council Meeting:
1) Read Ordinance No. 2022-07 by title only for the first time
2) City Clerk reads Ordinance no. 2022-07 by title only (if approved above)
At the April 19, 2022 Council Meeting:
3) Read Ordinance No. 2022-07 by title only for the final time
2) City Clerk reads Ordinance no. 2022-07 by title only (if approved above)
3) Adopt Ordinance No. 2022-07

F. **Consideration and Adoption of Ordinance No. 2022-08:** An ordinance of the Council of the City of Flagstaff, Coconino County, Arizona (1) providing for the sale and execution and delivery pursuant to a Series 2019 Utility System Revenue Trust Agreement of utility system revenue obligations, in one or more series evidencing proportionate interests of the owners thereof in installment payments of the purchase price to be paid by the City of Flagstaff, Arizona, pursuant to a Series 2019 Utility System Revenue Purchase Agreement to finance costs of certain improvements to the water and sewer utility system of the City; (2) authorizing the completion, execution and delivery with respect thereto of agreements necessary or appropriate as part of financing the costs of such improvements and paying related financing costs; (3) delegating to the Mayor, the City Manager, and the Management Services Director certain authority with respect to the purposes hereof; (4) authorizing the Management Services Director to expend all necessary funds therefor and (5) authorizing the Management Services Director or his designees to take all other actions necessary to the consummation of the transaction contemplated by this ordinance and establishing an effective date.

STAFF RECOMMENDED ACTION:

At the April 5, 2022 Council Meeting:
1) Read Ordinance No. 2022-08 by title only for the first time
2) City Clerk reads Ordinance no. 2022-08 by title only (if approved above)
At the April 19, 2022 Council Meeting:
3) Read Ordinance No. 2022-08 by title only for the final time
2) City Clerk reads Ordinance no. 2022-08 by title only (if approved above)
3) Adopt Ordinance No. 2022-08

G. **Consideration and Adoption of Resolution No. 2022-14:** A resolution of the Flagstaff City Council, declaring, for the purposes of Section 1.150-2 of the Federal Treasury Regulations, official intent to be reimbursed in connection with certain capital expenditures relating to the Wastewater Projects, Reclaimed Water Projects, Stormwater Projects and Transportation Projects, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-14 by title only
2) City Clerk reads Resolution No. 2022-14 by title only (if approved above)
3) Adopt Resolution No. 2022-14

H. **Consideration and Adoption of Resolution No. 2022-15:** A resolution of the City of Flagstaff City Council, authorizing Amendment No. One to an Intergovernmental Agreement between the State of Arizona and the City of Flagstaff for the design and construction of a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/Lockett Road.

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2022-15 by title only
2. City Clerk reads Resolution No. 2022-15 by title only (if approved above)
3. Adopt Resolution No. 2022-15

I. **Consideration and Approval of Modifications to the Property Development Standards:** Request by Foundation for Senior Living to approve modifications to property development standards for an affordable housing development located at 320 N Humphreys Street.

STAFF RECOMMENDED ACTION:

Staff recommends the City Council approve the modifications requested as presented.

13. FUTURE AGENDA ITEM REQUESTS

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

A. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Salas to place on a future agenda a discussion about bringing back the city-owned parcel at Shultz Pass to the list of properties to be developed for workforce housing.

STAFF RECOMMENDED ACTION:

Council direction.

14. PUBLIC PARTICIPATION

15. INFORMATIONAL ITEMS TO/FROM MAYOR, COUNCIL, AND STAFF, AND FUTURE AGENDA ITEM REQUESTS

16. 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 _____, 2022.

_____
Stacy Saltzburg, MMC, City Clerk

5.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Acceptance: Resignation of Vice Mayor Becky Daggett effective April 4, 2022.

STAFF RECOMMENDED ACTION:

Accept the resignation of Vice Mayor Becky Daggett effective April 4, 2022.

Executive Summary:

Vice Mayor Becky Daggett submitted a letter of resignation from the City Council on April 4, 2022.

In accordance with state law, the City Council must take official action to accept the resignation within ten days of receiving the resignation.

Financial Impact:

None

Policy Impact:

None

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

N/A

Previous Council Decision on This:

None

Attachments: Letter of Resignation

RECEIVED
APR 04 2022
BY:

April 4, 2022

Flagstaff City Council
211 W Aspen Avenue
Flagstaff, AZ 86001

Please accept this as my letter of resignation from Flagstaff's City Council. I am submitting this resignation for the sole purpose of running for Mayor in the 2022 General Election. It has been a privilege and my distinct honor to serve the city as a Councilmember.

Sincerely,

Becky Daggett

Becky Daggett

6.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Selection of Vice Mayor

STAFF RECOMMENDED ACTION:

Appoint a Vice Mayor

Executive Summary:

City Council Rules of Procedure; Rule 6.03 Selection of Vice Mayor states:

"The candidate with the highest number of votes in the most recent general candidate election shall be appointed Vice Mayor until the next general candidate election. If for whatever reason the Vice Mayor cannot fulfill their term the position will be transferred to the candidate with the next highest number of votes in the most recent general candidate election."

Based on the election results of November 3, 2020, the candidate with the highest number of votes was Becky Daggett. The candidate receiving the next highest number of votes was Miranda Sweet.

Financial Impact:

None

Policy Impact:

None

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

N/A

Previous Council Decision on This:

Becky Daggett was appointed as Vice Mayor on December 15, 2020.

Attachments: 2020 Election Results

MAYOR CITY OF FLAGSTAFF

Vote For 1

	TOTAL	Election Day	Early Voting	Provisional
DEASY, PAUL	17,520	1,408	16,005	107
ODEGAARD, CHARLIE	14,504	2,139	12,247	118
Write-In Totals	152	12	139	1
Overvotes	3	0	3	0
Undervotes	2,983	619	2,319	45

COUNCILMEMBER CITY OF FLAGSTAFF

Vote For 3

	TOTAL	Election Day	Early Voting	Provisional
DAGGETT, BECKY	16,721	1,213	15,425	83
GARCIA, ANTHONY	12,903	1,277	11,543	83
MCCARTHY, JIM	12,974	1,453	11,435	86
NOLAN, ERIC	10,717	967	9,701	49
SENSEMAN, ERIC	8,723	841	7,834	48
SWEET, MIRANDA	12,997	1,358	11,541	98
Write-In Totals	373	48	322	3
Overvotes	93	3	90	0
Undervotes	29,985	5,374	24,248	363

PROPOSITION 436 CITY OF FLAGSTAFF

Vote For 1

	TOTAL	Election Day	Early Voting	Provisional
YES	20,435	1,723	18,604	108
NO	12,688	2,114	10,434	140
Overvotes	1	0	1	0
Undervotes	2,038	341	1,674	23

Report generated with Electionware Copyright © 2007-2019

8. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Shannon Anderson, Senior Deputy City Manager

Co-Submitter: Rose Toehe

Date: 04/01/2022

Meeting Date: 04/05/2022

TITLE

COVID-19 Update

STAFF RECOMMENDED ACTION:

This presentation is for informational purposes only.

EXECUTIVE SUMMARY:

City staff will present the updated COVID-19 dashboard data and an update on Navajo and Hopi Tribal Nation's situations with COVID-19.

INFORMATION:

The COVID-19 dashboard includes information on new cases, hospitalization, COVID-related deaths, community-transmission level, vaccination status and variants.

The Navajo and Hopi Tribal Nations update will include information about the number of cases, any emergency orders, and related press releases.

Attachments: Presentation

COVID-19 Update

Dashboard Update

CITY OF FLAGSTAFF · ARIZONA · ESTABLISHED 1882 ·

TEAM FLAGSTAFF

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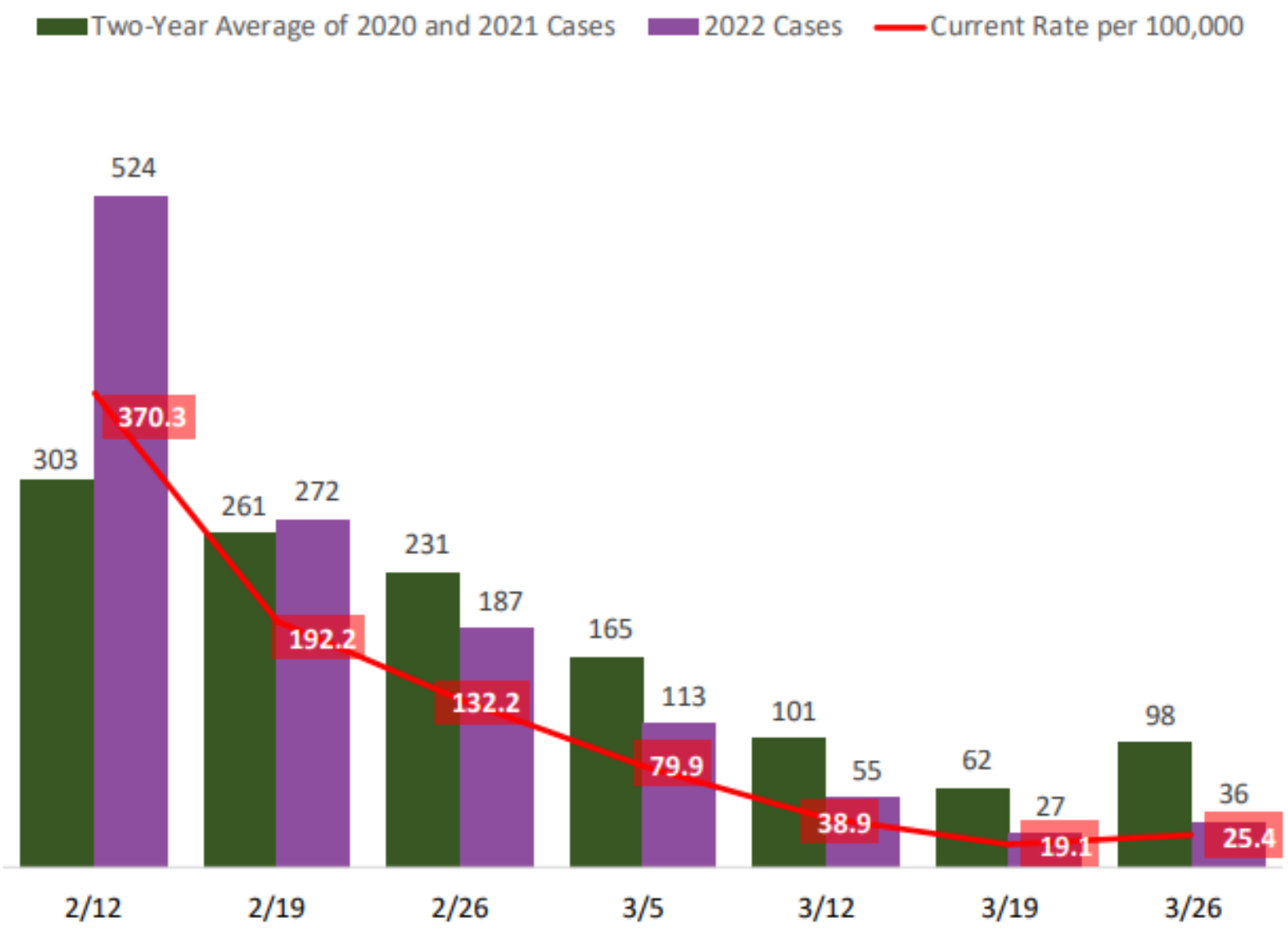
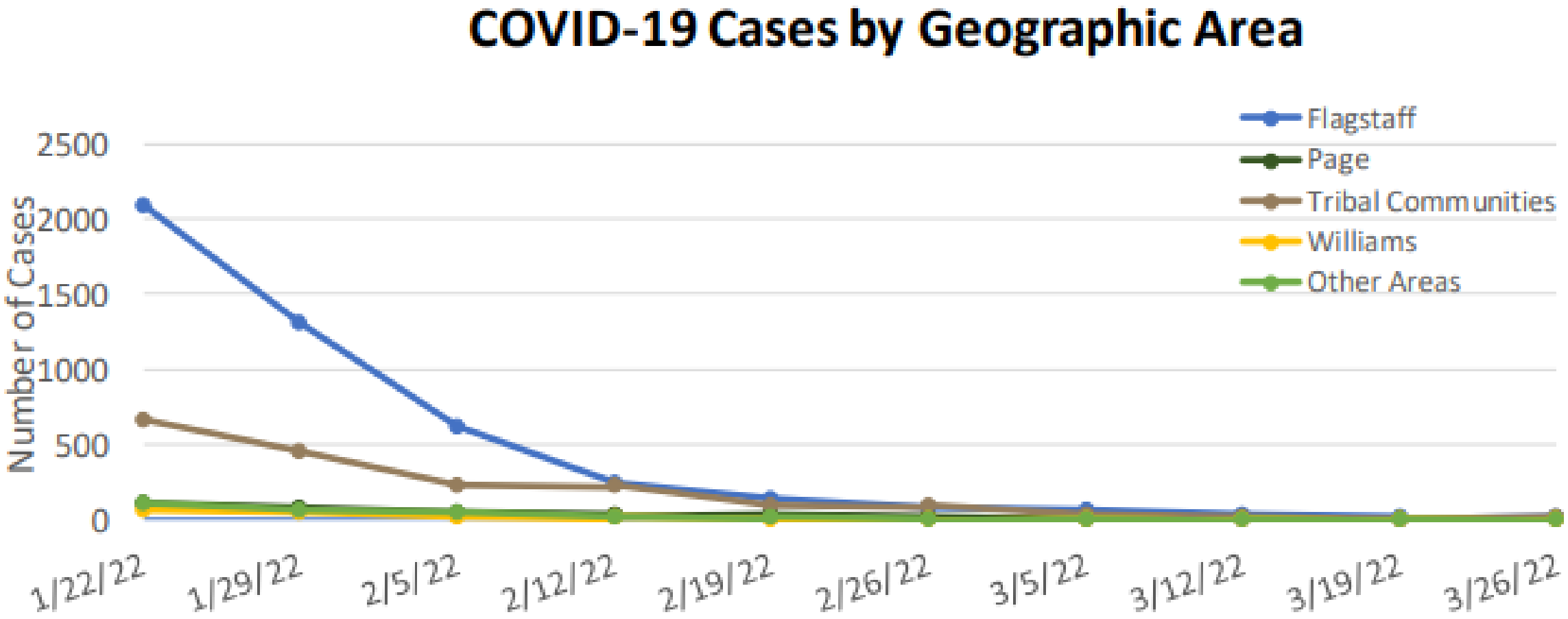
Agenda

- The Data
  - Coconino County Health and Human Services (CCHHS) dashboard
  - Northern Arizona Healthcare (NAH) hospital census
  - Navajo Nation
  - Hopi Tribe
- Indigenous Nations Update
- Re-Opening City Facilities

CCHHS: COVID-19 Weekly Cases

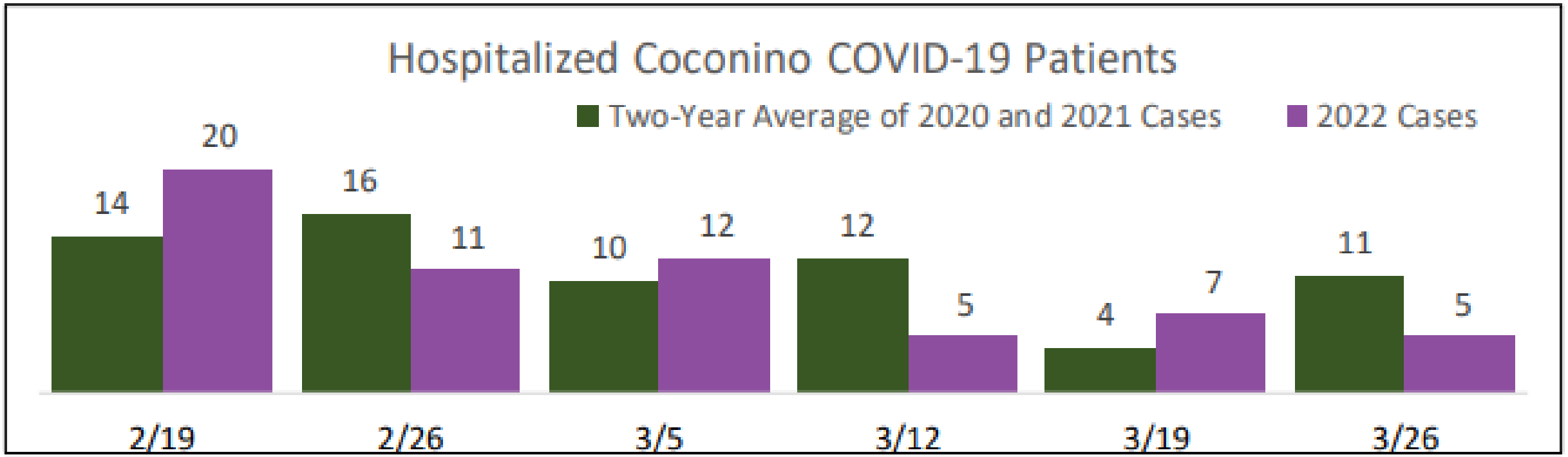


CCHHS: COVID-19 Weekly Cases



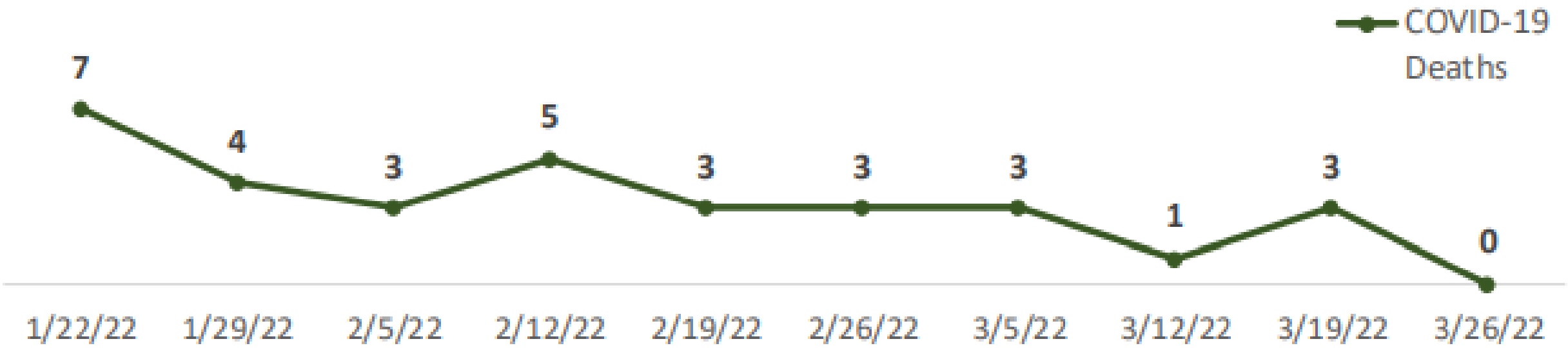
CCHHS: Hospital Admissions

Weekly Case Counts Among Coconino County Residents:



CCHHS: COVID-19 Related Deaths

Weekly COVID-19 Deaths Among Coconino County Residents:



CCHHS: Transmission & Level

Cases Reported Week 12 (March 20, 2022 - March 26, 2022):

36 Positive Cases	25.4 Rate per 100,000	1.6% Positivity Yield	2.0% COVID-Like Illness**

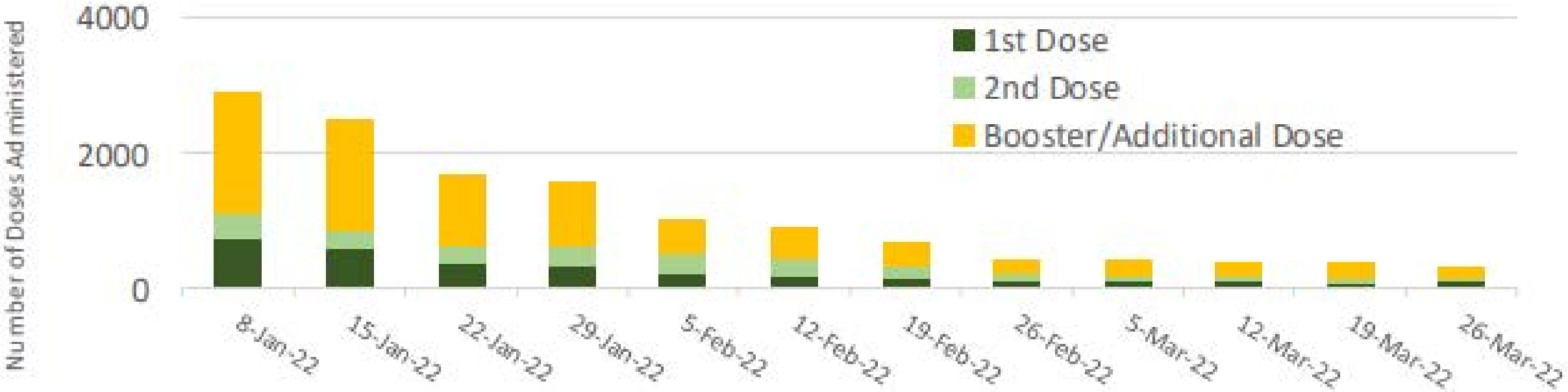
***CLI is reported using hospital surveillance at the county level. Banner Page and Flagstaff Medical Center are reporting CLI.*

Community Levels

Coconino County is currently at a **Low** ₮ community level.

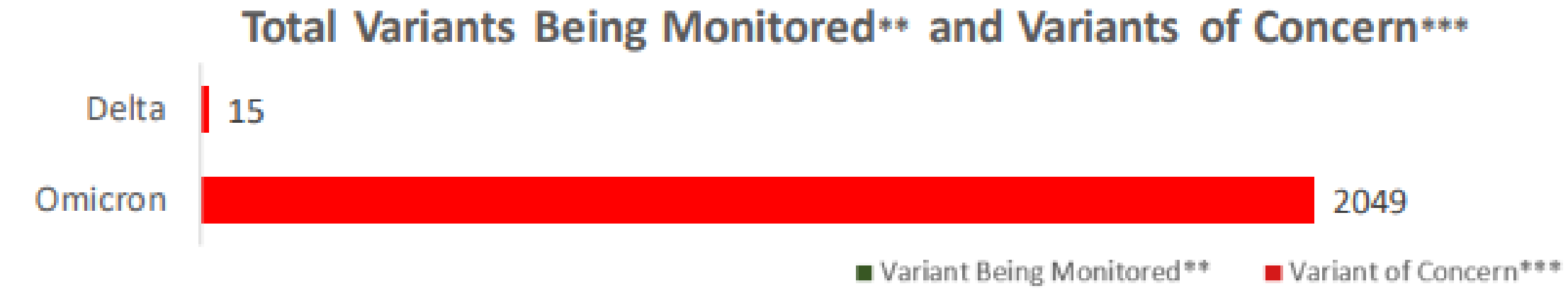
New Cases (per 100,000 people in the last 7 days)	**Indicator**	**Low**	**Medium**	**High**
Fewer than 200	**New COVID-19 admissions per 100,000 population (7-day total)**	**<10.0 Coconino: 2.1**	**10.0-19.9**	**≥20.0**
	Percent of staffed inpatient beds occupied by COVID-19 patients (7-day average)	**<10.0% Coconino: 6.7%**	**10.0-19.9%**	**≥15.0%**

CCHHS: Community Vaccination



CCHHS: Variants

COVID-19 Variants in 2022:



***Variants Being Monitored include variants for which there are data indicating a potential or clear impact on approved o authorized medical countermeasures or that has been associated with more severe disease or increased transmission but are no longer detected or are circulating at very low levels in the U.S, and as such, do not pose a significant and imminent risk to public health in the U.S.*

**** Variants of Concern include variants for which there is evidence of an increase in transmissibility, more severe disease (e.g., increased hospitalizations or deaths), significant reduction in neutralization by antibodies generated during previous infection or vaccination, reduced effectiveness of treatments or vaccines, or diagnostic detection failures.*

For more information about SARS-CoV-2 variants, please visit the CDC webpage:

SARS-CoV-2 Variant Classifications and Definitions (cdc.gov)

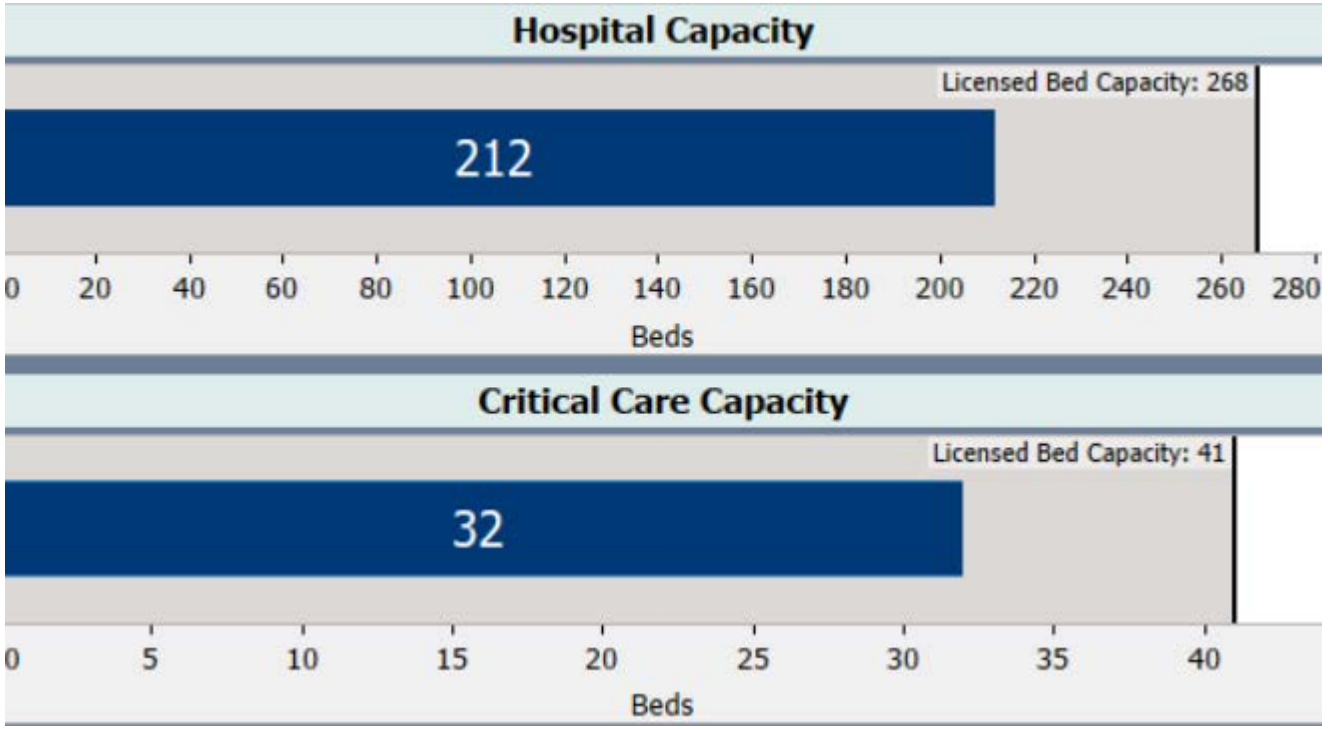
NAH: Hospital Census

Flagstaff Medical Center
Hospital Census

212

In House COVID-19 Patients

Positive	Pending
6	



Data as of April 4, 2022

Indigenous Nations Data

Navajo Nation

NN Health Facilities Data	Difference in 21 days	Current Week 3/31/22	Previous Date 3/10/22
Total Tested	+ 7,083	507,065	499,982
Negative Cases	+ 6,286	397,789	391,503
Confirmed Positive Cases	+ 361	53,046	52,685
Recoveries	+ 426	51,226	50,800
Deaths	+ 77	1,732	1,655

Indigenous Nations Data

Hopi Tribe

- Total cumulative positive total – 2,638 (29 increase)
- Total 14 Day active cases – 18 (10 decrease)
- Total 7 Day active cases – 9 (previous not reported)
- More than 6,123 vaccinated

Indigenous Nations Data

- Navajo Nation
  - 41.7% of 3,609 samples tested were Delta variant
  - 42.9% of 3,609 samples tested were Omicron variant
  - Safer at Home requirements still in effect
  - Public Health Emergency Orders orange status for schools and orange status for businesses will continue
  - Health Advisory for 7 communities (17 decrease)
  - Signing ceremony to thank Navajo Area Indian Health Service, medical providers, and frontline workers for their valor and commitment during the COVID-19 Pandemic

Indigenous Nations Data

- Hopi Tribe
  - Effective 3/3/22 Return to Work Phase Three Re-Opening
    - Resume public interaction
    - Maintain physical distancing
    - Use face masks
    - Minimize exposure in social settings without measures
  - Reflection of the pandemic over the past two years and actions taken

Re-Opening City Facilities

- Effective Monday, April 11th
  - Regular operating hours
  - Staffing
  - Monitor any changes in COVID transmission
- Encourage hybrid meetings where feasible given the flexibility for participants
- City staff updating Flexible Work Schedule policies
- Travel and event restrictions lifted

Council Questions

TEAM FLAGSTAFF

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10. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Action on Liquor License Application: Christian Sheffield Day, "Sky Island Kombucha," 1515 N. Main Street, Series 03, New License.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

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

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. The applicant is requesting a Series 03 (microbrewery) license.

A Series 03 license allows an in-state microbrewery to sell beer produced or manufactured on the premises for consumption on or off the premises; they may sell to in-state and out-of-state licensed wholesaler and retailers. Beer produced or manufactured on the premises may be served for the purpose of sampling. If approved, this will be the 10th active series 03 license in Flagstaff.

To view surrounding liquor licenses, please visit the Active Liquor Licenses Map.

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

Financial Impact:

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

Policy Impact:

Not applicable.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

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

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

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

The deadline for issuing a recommendation on this application is April 8, 2022.

Community Benefits and Considerations:

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

Community Involvement:

The application was properly posted on March 15, 2022. No written protests have been received to date.

Attachments:

Letter to Applicant
Hearing Procedures
Series 06 Description
PD Memo
Zoning Memo
Map

City of Flagstaff

OFFICE OF THE CITY CLERK

3/23/2022

Christian Sheffield Day
1251 N. Pine Cliff Drive #102
Flagstaff, AZ 86001

Dear Mr. Day:

Your applications for a Series 03 Liquor License New License for Sky Island Kombucha located at 1515 N. Main Street #H, Flagstaff, AZ was posted on March 15, 2022. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, April 5, 2022, which is scheduled to begin at 3:00 p.m.**

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

The twenty-day posting period for your liquor license application is set to expire on April 4, 2022, and the application may be removed from the premises at that time.

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

If you have any questions, please feel free to call me at 928-213-2077 (office) or 928-220-5995 (cell).

Sincerely,

Stacy M. Fobar

Stacy M. Fobar
Deputy City Clerk

Enclosures

City of Flagstaff

Liquor License Application
Hearing Procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

License Types: Series 06 Bar (all spirituous liquor)

Transferable (From person to person and/or location to location within the same county only)
On & off-sale retail privileges
Note: Terms in **BOLD CAPITALS** are defined in the glossary.

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

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

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

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

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

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

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

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

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

FLAGSTAFF POLICE DEPARTMENT
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Chief of Police
Dan Musselman

MEMORANDUM

Memo #22-015

TO: **Chief Dan Musselman**

FROM: **Sgt. Ryan Turley**

DATE: **February 28th, 2022**

RE: **Liquor License Application – Series 3 for Sky Island Kombucha**

On February 28th, 2022, I initiated an investigation into an application for a series 3 (Microbrewery) liquor license filed by Christian Day (Agent) and Sean Austin (Controlling Person). This is a new application and the application number is 167784. It is for Sky Island Kombucha which is located at 1515 N. Main Street # H.

I conducted a query through local systems and public access on all of the applicants and discovered no derogatory records. I conducted a search for current or historical liquor violations on the business and found none. I found evidence that the applicants have taken the mandatory liquor license training. This business is not located within 300 feet of a school or church.

The business hours has not been set up yet and a representative will be present for the council meeting on April 5th .

Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk

From: Reggie Eccleston, Code Compliance Manager

CC: Michelle McNulty, Planning Director

Date: March 17, 2022

Re: Application for Liquor License #167784
1515 N Main St. #H, Flagstaff, Arizona 86004
Assessor's Parcel Number 107-06-067D
Christian Sheffield Day on behalf of Sky Island Kombucha

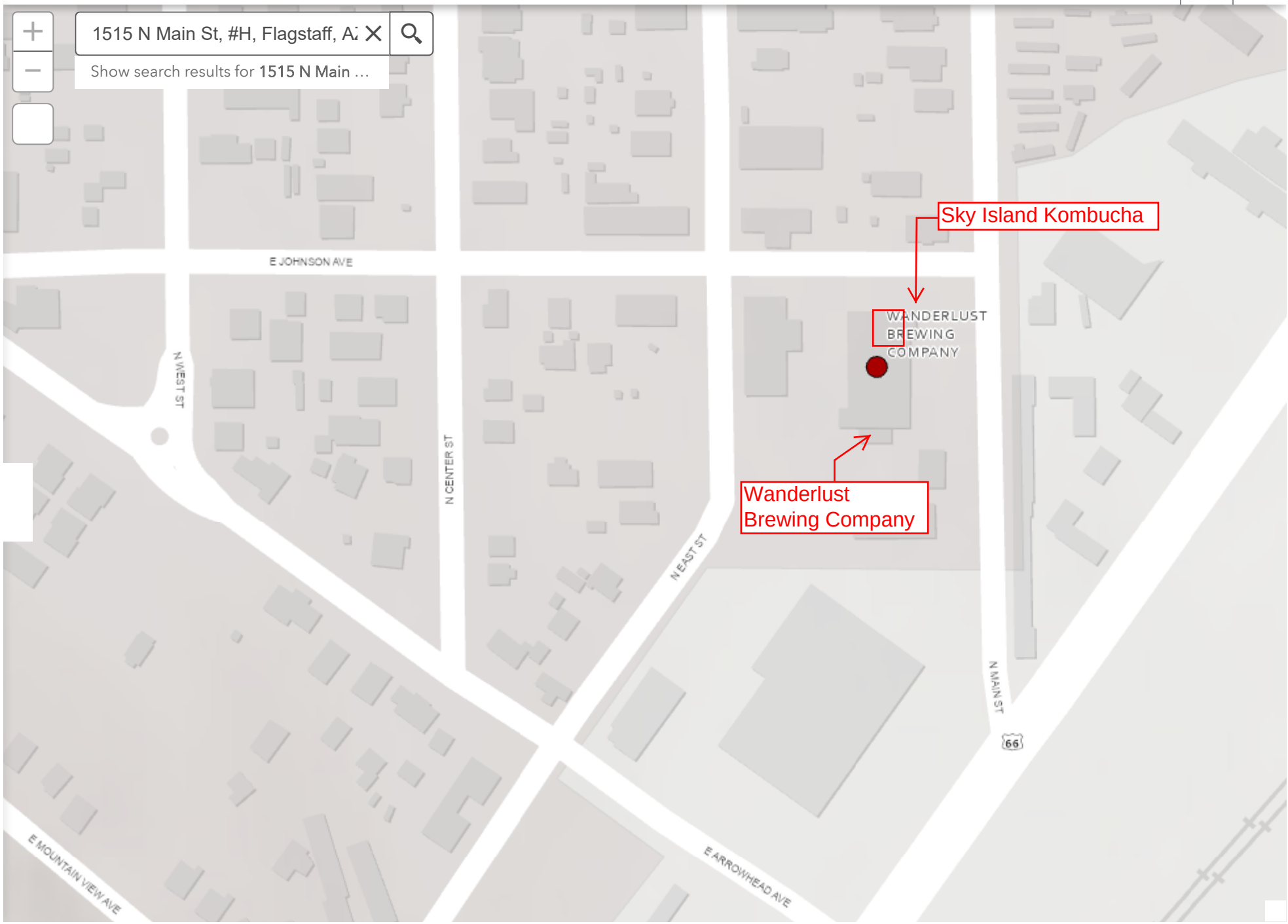
This application is a request for a new Series 3 In State Microbrewery liquor license by Christian Sheffield Day on behalf of Sky Island Kombucha. This business is located within the Highway Commercial district. This district does allow for this use.

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

This liquor license is recommended for approval.

Active Liquor Licenses

City of Flagstaff GIS



10. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Action on Liquor License Application: Andrea Lewkowitz "Hyatt Place Flagstaff," 397 S. Malpais Lane, Series 11 (Hotel/Motel), New License.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

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

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A series 11 license allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

Hyatt Place is a new hotel in Flagstaff. If approved, this will be the 6th active series 11 license in Flagstaff. To view surrounding liquor licenses, please visit the Active Liquor Licenses Map.

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

Financial Impact:

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

Policy Impact:

Not applicable.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

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

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

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

The deadline for issuing a recommendation on this application is April 8, 2022.

Community Benefits and Considerations:

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

Community Involvement:

The application was properly posted on March 15, 2022. No written protests have been received to date.

Attachments:

Letter to Applicant
Hearing Procedures
Series 11 Description
PD Memo
Zoning Memo
Map

City of Flagstaff

OFFICE OF THE CITY CLERK

3/23/2022

Andrea Dahlman Lewkowitz
2600 N. Central Avenue
Phoenix, AZ 85004

Dear Ms. Lewkowitz:

Your applications for a Series 11 Liquor License New License for Hyatt Place Flagstaff located at 397 S. Malpais Lane, Flagstaff, AZ was posted on March 15, 2022. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, April 5, 2022, which is scheduled to begin at 3:00 p.m.**

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

The twenty-day posting period for your liquor license application is set to expire on April 4, 2022, and the application may be removed from the premises at that time.

Thank you for your payment for the liquor license fee.

If you have any questions, please feel free to call me at 928-213-2077 (office) or 928-220-5995 (cell).

Sincerely,

Stacy M. Fobar

Stacy M. Fobar
Deputy City Clerk

Enclosures

City of Flagstaff

Liquor License Application
Hearing Procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

License Types: Series 11 Hotel/Motel License (with Restaurant)

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

PURPOSE:
Allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:
An applicant for a hotel/motel license must file a copy of its restaurant menu with the application.

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

The restaurant on the licensed premises must derive at least forty percent (40%) of its gross revenue from the sale of food.

A hotel or motel with a Series 11 license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is by a key or magnetic card device and **not** furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m. Monday through Saturday and 2:00 a.m. and 10:00 a.m. on Sundays.

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

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

A **PREGNANCY WARNING SIGN** for pregnant women must be posted in each room on the inside of the door **or** on a menu (or similar item).

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

FLAGSTAFF POLICE DEPARTMENT
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Chief of Police
Dan Musselman

MEMORANDUM

Memo #22-016

TO: **Chief Dan Musselman**

FROM: **Lt. Ryan Turley**

DATE: **February 28th, 2022**

RE: **Liquor License Application – Series 11 for Hyatt Place**

On February 28th, 2022, I initiated an investigation into an application for a series 11 (Hotel / Motel) liquor license filed by Andrea Lewkowitz (Agent) and Jay Olson (Controlling Person). This is a new application and the application number is 179711. It is for Hyatt Place hotel located at 397 S Malpais Lane

I conducted a query through local systems and public access on all of the applicants and discovered no derogatory records. I conducted a search for current or historical liquor violations on the business and found none. I found evidence that the applicants have taken the mandatory liquor license training. This business is not located within 300 feet of a school or church.

A representative for the business will be present for the council meeting on April 5th .

Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk

From: Reggie Eccleston, Code Compliance Manager

CC: Michelle McNulty, Planning Director

Date: March 17, 2022

Re: Application for Liquor License #179711
397 S. Malpais Ln. Flagstaff, Arizona 86001
Assessor's Parcel Number 103-02-030A
Andrea Dahlman Lewkowitz on behalf of Hyatt Place Flagstaff

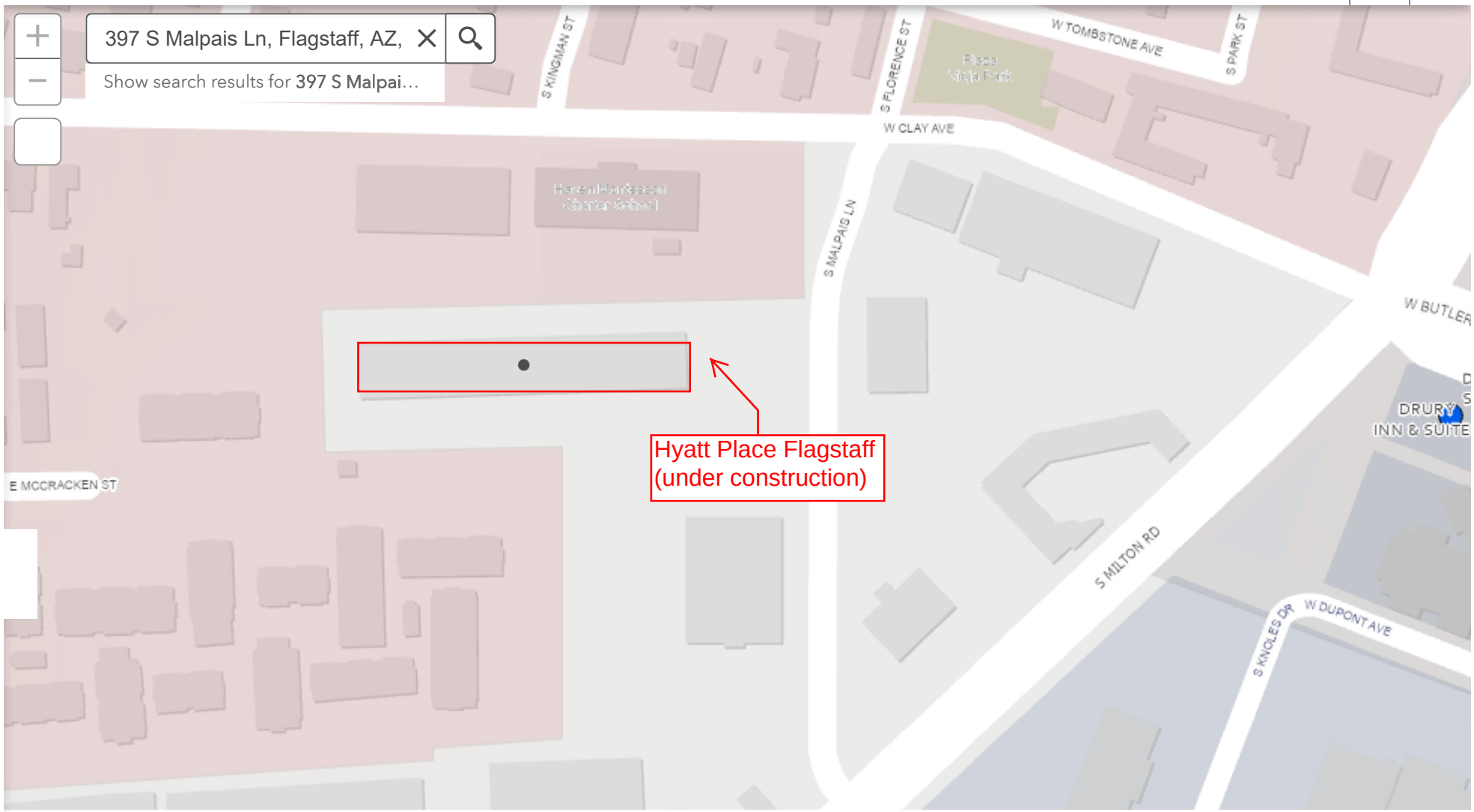
This application is a request for a new Series 11 Hotel/Motel liquor license by Andrea Dahlman Lewkowitz on behalf of Hyatt Place Flagstaff. This business is located within the Highway Commercial district. This district does allow for this use.

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

This liquor license is recommended for approval.

Active Liquor Licenses

City of Flagstaff GIS



10. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Action on Liquor License Application: Javier Magallanes Melendez, "Bow Wow Street Dogs and Grill," 1000 N. Humphreys #243, Series 12, New Application.

STAFF RECOMMENDED ACTION:

Hold the public hearing.

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

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting at the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A Series 12 license allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Bow Wow Street Dogs and Grill is a new business in Flagstaff. If approved it will be the 89th active series 12 license in Flagstaff. Series 12 licenses are non-quota licenses. To view surrounding liquor licenses, please refer to the online interactive Liquor License Map.

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

Financial Impact:

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

Policy Impact:

Not applicable.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

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

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

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

The deadline for issuing a recommendation on this application is April 8, 2022.

Community Benefits and Considerations:

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

Community Involvement:

The application was properly posted on March 15, 2022. No written protests have been received to date.

Attachments:

Letter to Applicant
Hearing Procedures
Series 12 Description
PD Memo
Zoning Memo
Map

City of Flagstaff

OFFICE OF THE CITY CLERK

3/23/2022

Javier Magallanes Melendez
1000 N Humphreys #243
Flagstaff, AZ 86001

Dear Mr. Melendez:

Your applications for a Series 12 Liquor License New License for Bow Wow Street Dogs & Grill LLC located at 1000 N Humphreys #243, Flagstaff, AZ was posted on March 15, 2022. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, April 5, 2022, which is scheduled to begin at 3:00 p.m.**

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

The twenty-day posting period for your liquor license application is set to expire on April 4, 2022, and the application may be removed from the premises at that time.

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

If you have any questions, please feel free to call me at 928-213-2077 (office) or 928-220-5995 (cell).

Sincerely,

Stacy M. Fobar

Stacy M. Fobar
Deputy City Clerk

Enclosures

City of Flagstaff

Liquor License Application
Hearing Procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

License Types: Series 12 Restaurant License

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

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

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

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

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

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

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

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

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

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

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Chief of Police
Dan Musselman

MEMORANDUM

Memo #22-017

TO: **Chief Dan Musselman**

FROM: **Lt. Ryan Turley**

DATE: **February 28th, 2022**

RE: **Liquor License Application – Series 12 for Bow Wow Street Dogs and Grill**

On February 28th, 2022, I initiated an investigation into an application for a series 12 (Restaurant) liquor license filed by Javier Melendez (Agent and Controlling Person) This is a new application and the application number is 183869. It is for Bow Wow Street Dogs and Grill located at 1000 N Humphreys # 243.

I conducted a query through local systems and public access on all of the applicants and discovered no derogatory records. I conducted a search for current or historical liquor violations on the business and found none. I found evidence that the applicants have taken the mandatory liquor license training. This business is not located within 300 feet of a school or church.

The business hours are Tuesday through Saturday 11am to 7pm. A representative for the business will be present for the council meeting on April 5th .

Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk

From: Reggie Eccleston, Code Compliance Manager

CC: Michelle McNulty, Planning Director

Date: March 17, 2022

Re: Application for Liquor License #183869
1000 N. Humphreys #243 Flagstaff, Arizona 86001
Assessor's Parcel Number 101-01-004F
Javier Magallanes Melendez on behalf of Bow Wow Street Dogs and Grill

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This application is a request for a new Series 12 Restaurant liquor license by Javier Magallanes Melendez on behalf of Bow Wow Street Dogs and Grill. This business is located within the Community Commercial district. This district does allow for this use.

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

This liquor license is recommended for approval.

Active Liquor Licenses City of Flagstaff GIS

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Patrick St. Clair, Planner
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Approval of Final Plat: PZ-21-00193-02 Craig and Christina Clark request Final Plat approval of a 2-lot subdivision titled Final Modified Clark Subdivision, at 6275 N Rain Valley Rd (APN 113-05-019) on an existing 10-acre parcel in the Rural Residential (RR) zone.

STAFF RECOMMENDED ACTION:

Approve the Final Plat and authorize the Mayor to sign the plat when notified by staff that the documents are ready for recording

Executive Summary:

This is a request to approve a Final Plat creating a 2-lot subdivision known as Final Modified Clark Subdivision, here after referenced in this report as "Final Plat". Zoned Rural Residential (RR) and in the Resource Protection Overlay (RPO), the original 10-acre parcel will be divided into two 5-acre lots each with access from N Rain Valley Rd.The original parcel is numbered APN 113-05-019.

Financial Impact:

There are no financial impacts affiliated with this Final Plat.

Policy Impact:

There are no policy impacts affiliated with this Final Plat.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Robust Resilient Economy - grow and strengthen a more equitable and resilient economy

Regional Plan

- Policy CC.1.5. Design development patterns to maintain the open character of rural areas, protect open lands, and protect and maintain sensitive environmental areas.
- Policy LU.14.6. Plan for development outside of the rural growth boundary to be very low density and to have integrated conservation design.

Has There Been Previous Council Decision on This:

There have not been any previous City Council decisions on this proposal.

Options and Alternatives:

1. Approve the Final Plat with no conditions.
2. Approve the Final Plat with conditions.
3. Deny the Final Plat based on non-compliance with the Zoning Code, the Subdivision Code, and/or Engineering Design Standards and Specifications for New Infrastructure.

Background/History:

To create the two proposed 5-acre lots from the original 10-acre parcel, the Modified Subdivision Process, as described in City Code 11-20.90, is necessary since the original parcel is over 2-1/2 acres and the proposal would create less than four lots in the subdivision. Accordingly, on January 10, 2022, a Concept Plat for the proposal was deemed complete by the Inter-Division Staff (IDS), and on February 23, 2022, the Inter-Division Staff (IDS) approved a Final Plat proposal with the condition that the applicant obtain City Council approval of the Final Plat.

Key Considerations:

Property owners Craig and Christina Clark, request to subdivide an existing 10-acre parcel into two 5-acre lots. The proposal is required to use the Modified Subdivision Process (City Code Title 11, General Plans and Subdivisions, Division 11-20.90: Modified Subdivision Process) because it proposes a subdivision over 2-12 acres with less than a maximum of four proposed lots.

The Final Plat clarifies the following aspects about the subdivision:
a) The subdivision exists outside the Urban Growth Boundary (as shown on Regional Plan Map 22) and as such, no public services (water and sewer) will be extended to the subdivision and;
b) The subdivision is in the Resource Protection Overlay Zone (RPO) and each lot in the subdivision shall preserve existing resources on site, namely 50% retention of the existing on-site forest resources and;
c) There are no dedications or abandonment of real property included with the proposed subdivision and;
d) The subdivision plan shows that Lots 1 and 2 of the subdivision are compliant with:

i) The minimum required area of a parcel in the Rural Residential zone. Per zoning code table 10-40.30.030.B, end note #6, "The required gross minimum area of five-acres is required where public water supply and public streets are not available to serve the property." The Final Plat shows two 5-acre lots within the subdivision and;

ii) The minimum parcel dimensions required in the Rural Residential Zone. Per zoning code table 10-40.30.030.B, end note #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." The Final Plat shows each lot within the subdivision to exceed 200' in width and 250' in depth and;

iii) Each parcel in the proposed subdivision has legal access due to their respective frontages onto Rain Valley Road Easement (Access Easement Document # 3374019 attached to this report).

Community Involvement:

Inform. No public hearings or public outreach are required by either the Zoning Code or the Subdivision Code as part of the Modified Subdivision process.

Attachments:

Final Plat Application
Vicinity Map
Final Plat
Access Easement Document #3374019
Presentation

City of Flagstaff — Community Development Division

211 W. Aspen Ave
Flagstaff, AZ 86001
www.flagstaff.az.gov
P: (928) 213-2618

Date Received	Application for Subdivision Review	File Number
01/09/2022		

Property Owner(s): CRAIG AND CHRISTINA CLARK		Phone: 480-250-8368 CH - 480-390-2373 CK
Mailing Address: 8120 N. BROWNING DR.	City, State, Zip: FLAGSTAFF, AZ, 86004	Email: ANALYE1@AOL.COM
Applicant(s): CRAIG AND CHRISTINA CLARK		Phone: 480-250-8368
Mailing Address: 8120 N. BROWNING DR.	City, State, Zip: FLAGSTAFF, AZ, 86004	Email: ANALYE1@AOL.COM
Project Representative: CHRISTINA CLARK		Phone: 480-250-8368
Mailing Address: 8120 N. BROWNING DR.	City, State, Zip: FLAGSTAFF, AZ 86004	Email: ANALYE1@AOL.COM

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

Project Name: RAIN VALLEY	Site Address: 6275 N. RAIN VLY RD.	Parcel Number: 113-05-019
Proposed Use: RURAL RESIDENTIAL	Existing Use: RURAL RESIDENTIAL	Subdivision, Tract & Lot Number: RAIN VALLEY

Zoning District	Regional Plan Category	Flood Zone	Size of Site (Sq. ft. or Acres)
RR		ZONE X	10 ACRES

Property Information:
- ☐ Yes ☒ No Located in an existing Local/National Historic District? (Name: _____)
- ☐ Yes ☒ No Existing structures are over 50 years old at the time of application?
- ☒ Yes ☐ No Subject property is undeveloped land?

Surrounding Uses	North	South	East	West
(Res, Com, Ind)	RES	FOREST SERVICE	RES	RES

Proposed Use:	Number of Lots	Number of Units	Number of acres per use	Building Square Feet
RURAL RESIDENTIAL	2	N/A	5 ACRES	N/A

Please complete a *"Subdivision Review Application"* and provide an initialed *"Application and Information Checklist"* form along with the required number of plans and information as appropriate for a Development Master Plan, Conceptual, Preliminary or Final Plat. **Incomplete submittals will not be scheduled.**

Property Owner Signature: (required)	Date:	Applicant Signature:	Date:
C. Clark	01/09/2022	C. Clark	01/09/2022

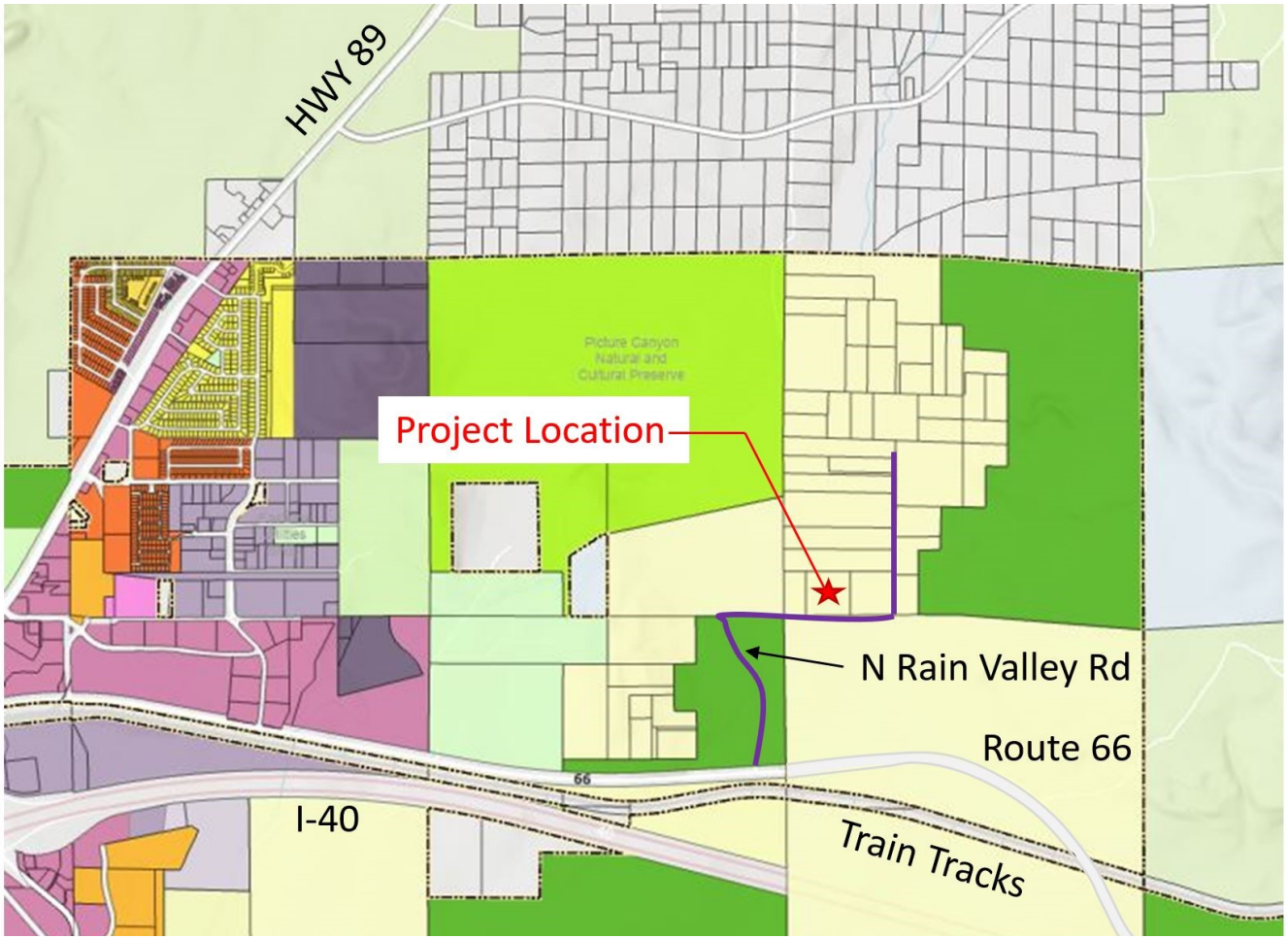
For City Use

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

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

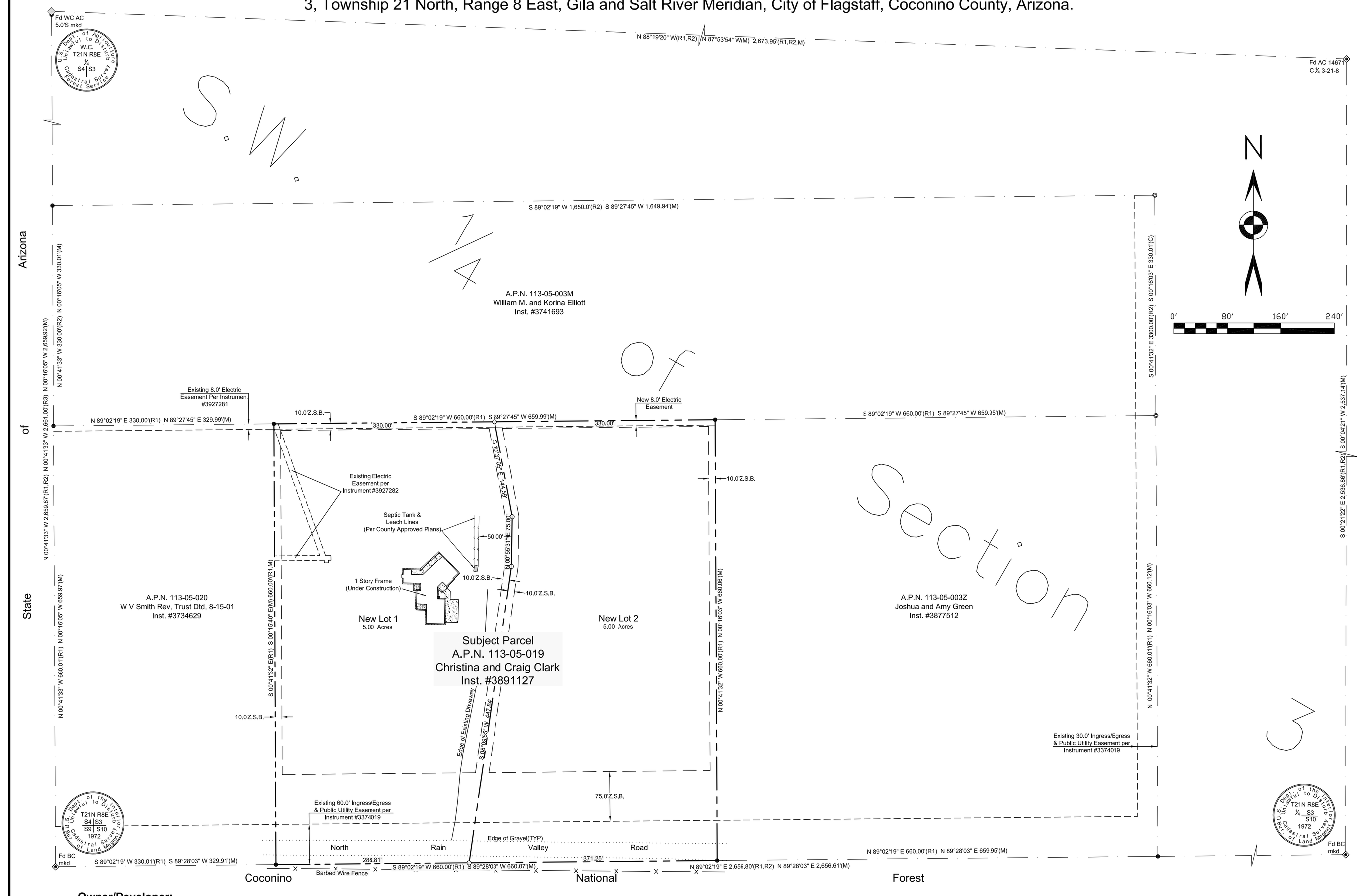
Staff Assignments	Planning	Engineering	Fire	Public Works/Utilities	Stormwater

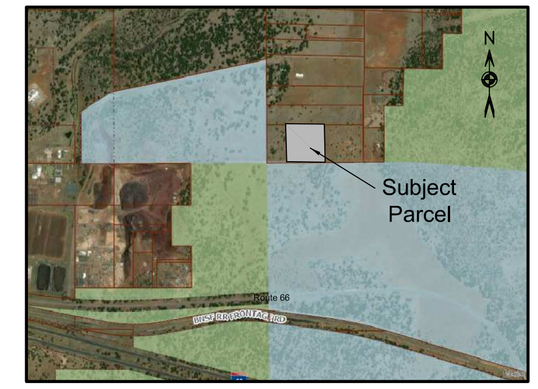
Vicinity Map
6275 N Rain Valley Rd



Final Modified Plat of Assessors Parcel No. 113-05-019

As recorded in Instrument #3891127, records of Coconino County, situated in the Southwest Quarter of Section 3, Township 21 North, Range 8 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.





Vicinity Map
(Not to Scale)

Declaration and Dedication:

State of Arizona }
} SS
County of Coconino }

KNOW ALL MEN BY THESE PRESENTS:

That Christina and Craig Clark have subdivided that parcel as described in Instrument # 3891127, records of Coconino county, under the name , **Final Modified Plat of Assessor's Parcel No. 113-05-019**, situated in the Southwest Quarter of Section 3, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona, as shown and platted hereon and hereby publishes this plat as, and for, the plat of said **Final Modified Plat of Assessor's Parcel No. 113-05-019** and further declares that said plat sets forth the location and gives the dimensions and measurements of the individual lots, and that each individual lot shall be known by its number or other designation, given to each on this plat. Declarants do hereby dedicate to Arizona Public Service, the area designated as "New Electric Easement" as an Electric Easement. Declarants do hereby declare that emergency and garbage vehicles shall access and service **Final Modified Plat of Assessor's Parcel No. 113-05-019** via the existing streets previously dedicated to the public by the existing instruments as shown hereon.

IN WITNESS WHEREOF:

Christina Clark has hereunto caused her name to be affixed and the same to be attested by his signature as Christina Clark hereunto duly authorized.

This_____day of_____, 2021.

By:_____
Christina Clark

IN WITNESS WHEREOF:

Craig Clark has hereunto caused her name to be affixed and the same to be attested by his signature as Christina Clark hereunto duly authorized.

This_____day of_____, 2021.

By: _____
Craig Clark

ACKNOWLEDGMENT:

ACKNOWLEDGMENT:

State of Arizona }
} SS
County of Coconino }

On this ___ day of _____, 2021, before me, appeared Christina Clark, who acknowledged herself to be duly authorized to execute the forgoing instrument for the purposes therein contained,

On this ___ day of _____, 2021, before me, appeared Craig Clark, who acknowledged himself to be duly authorized to execute the forgoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

Notary Public

City of Flagstaff Approvals:

It is hereby certified that this Plat has been officially approved for the record by the City of Flagstaff, Coconino County, Arizona, on this___ day of _____, 2021.

By:_____ , Mayor.

Attest:_____, City Clerk.

It is hereby certified that this Plat has been officially approved for the record by the Community Development Planning Director and by the City Engineer, City of Flagstaff, Coconino County, Arizona on this ___ day of _____, 2021.

By: _____, Planning Director.

By: _____ , City Engineer.

Owner/Developer:

Christina and Craig Clark
8120 N. Browning Drive
Flagstaff, AZ. 86004
Ph. No. 480-250-8368

Legal Description(Parent Parcel):

A portion of that parcel recorded as Exhibit "B" in Instrument "B" in Instrument No. 3685496, records of Coconino County, Arizona, situated the Southwest Quarter of Section 3, Township 21 North, Range 8 East, Gila and Salt River Base and Meridian, Coconino County, Arizona, more particularly described as follows:

The West 660.00 feet of the East 1,320.00 feet of the West 1,650.00 feet of the South 660.00 feet of said Southwest Quarter of Section 3.

FEMA Flood Note:

Per FIRM Map No. 04005C6831G, Panel 6809 dated September 3, 2010, the Subject Parcel is entirely within Zone X which is outside the 0.1% (100-year) annual chance floodplain but within the 0.2% (500-year) annual chance floodplain.

Utility Acknowledgement:

_____
Arizona Public Service Date:

Recording Instruments(Original):

Instrument #3891127, records of Coconino county.

Title Commentment:

Title Commitment consulted, Pioneer Title Agency, Inc. No. 70512181-005-JRK.

Current Zoning(Subject Parcel):

Rural Residential (RR), per the City of Flagstaff Land Development Code.

City of Flagstaff Notes:

This subdivision is located outside the City of Flagstaff Urban Growth Boundary as identified on the Reglonal Plan. As such, no public services will be extended to this subdivision.

The driveway on New Lot 1 will be located entirely on said New Lot.

The entire subdivision is within the Resource Protection Overlay Zone and each Lot shall provide resource protection of 50% or greater for on-site tree resources as required for residential zones.

New Lot 1 contains 5,592 Square Feet of Impervious Area.

Basis of Bearings:

A note on Basis of Bearing and Coordinate System:

Linear Unit: International Foot
Geodetic Datum: North American Datum 1983
System: Arizona LDP (Low Distortion Projection)

Projection: Transverse Mercator
Latitude of grid origin: 35° 00' 00" N
Longitude of Central Meridian: 111° 37' 00" W
Northing at grid origin: 0.000 ft
Easting at Central Meridian: 70,000.000 ft.
Central Meridian Scale Factor: 1.000333 (exact)

All distances and bearings shown hereon are grid values based on the preceding projection definition. The projection was defined such that grid distances are equivalent to "ground" distances within the project area.

The Basis of Bearings is Geodetic North based on GPS measurements. These bearings have been rotated to grid for the City of Flagstaff Low Distortion Projection. All bearings and distances shown on this map are grid per the preceding definition.

Certification:

I hereby certify that this plat and the survey on which it is based was performed and prepared by me or under my direct supervision during November and December of 2021, and is true and correct to the best of my knowledge and belief.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
30364
MICHAEL J. STARK
12-21-21
Date Signed
ARIZONA, U.S.A.

Legend/Record Information:

- ◈ - Found Sectional Corner as noted.
- ◈ - Calculated Sectional Corner.
- ● - Found rebar w/Cap 14671.
- ○ - Set 1/2" rebar w/Cap 14671.
- ◎ - Calculated Point.
- Z.S.B.- Zoning Setback.
- (R)- Record Information as noted.
- (M)- Measured Bearings and Distances.
- (C)- Calculated Bearings and Distances.
- (R1)- Instrument # 3734628, C.C.R.
- (R2)- Instrument # 3640154, C.C.R.
- (R3)- Book 4 of Maps, Page 82, C.C.R.

Revisions: 12-9-21 City of Flagstaff comments.

Northland Exploration Surveys, Inc.
528 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-5058 FAX (928) 774-3089

SCALE: 1" = 80.0'	Final Modified Plat of **A.P.N. 113-05-019**	SHEET 1 OF 1
SURVEYOR: MJS		
DRAWN: M. J. Stark		JOB NO. 21-145
CHECKED: K. A. KRENKE		
DATE: December 21, 2021	As recorded in Instrument #3891127, records of Coconino County, situated in the Southwest Quarter of Section 3, Township 21 North, Range 8 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	

Official Records of Coconino County 3374019
Candace Owens - Recorder 3/15/0612:20 PM Pgs: 70
PIONEER TITLE AGENCY INC E $78.00

When recorded, return to:

Pioneer Title Agency
112 N. Elden Street
Flagstaff, Arizona 86001

This Easement Agreement is exempt, pursuant to ARS §11-1134(A)(2) from the requirements of ARS §11-1133 (if applicable).

RAIN VALLEY ROAD EASEMENT AGREEMENT

For
Coconino County Tax Parcel
#113-05-3J

DATE	November 16, 2005
GRANTOR(S)	Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001, Velma V. Fanning and Lila M. Pierce, as the owner(s) of the servient estate identified on Exhibit A, their assignees, successors in interest, heirs, and/or devisees
GRANTEES	All current and future property owners within Section 3, Township 21 North, Range 8 East, Coconino County, Arizona whose property has been identified by the Coconino County Assessors Office with a parcel identification number and who have entered into this Rain Valley Road Easement Agreement as owners of the real properties identified in Exhibit B as the Dominant Estate hereinafter individually and collectively referred to as a **"RAIN VALLEY PROPERTY OWNER"**.
CITY OF FLAGSTAFF	An Arizona municipal corporation
SERVIENT ESTATE	The real property identified in Exhibit A
DOMINANT ESTATE	The real properties identified in Exhibit B as the Dominant Estate
EASEMENT AREA:	The southerly 60 feet and the easterly 30 feet of the real property identified in Exhibit A as the Servient Estate

RECITALS

WHEREAS, the Grantor(s) and Grantees are all property owners within Section 3, Township 21 North, Range 8 East, Coconino County, Arizona; and

WHEREAS, for mutual benefit, the Grantor(s) and Grantees are compelled to establish a common road, which has heretofore been partially constructed and will be completed within the Easement Area, and to provide for maintenance of such common road; and

WHEREAS, for mutual benefit, the Grantor(s) and Grantees are required to join together to obtain or become parties to the existing special use permit from the United States Forest Service for ingress and egress over property owned by the United States of America; and

WHEREAS, for mutual benefit, the Grantor(s) and Grantees are required to join together to obtain or become parties to the existing Right of Way for ingress and egress over property owned by the State of Arizona, and

WHEREAS, regulations of the City of Flagstaff require that a public safety and services access easement be made available to the City of Flagstaff to allow public safety personnel, including, but not limited to emergency medical, fire and police personnel, building inspectors, public utility personnel and other public service personnel to access the properties subject to this Easement Agreement; and

WHEREAS, the parties desire to define their rights and obligations regarding the construction and maintenance of such common roadway;

NOW THEREFORE, in consideration of the mutual covenants contained herein the Grantor(s), Grantees and the City of Flagstaff, as evidenced by their signatures, for themselves, their heirs, devisees, successors in interest, and assignees, agree as follows:

1. **GRANT OF EASEMENT:**

Grantor(s) hereby grants and conveys to Grantees and to the City of Flagstaff, their heirs, devisees, successors and assigns, a non-exclusive, perpetual easement ("Easement") for ingress and egress over the Easement Area for access and other purposes as described below to the real properties described on Exhibit B as the Dominant Estate. The Easement granted herein and all rights, obligations, and privileges created herein shall be appurtenant to and shall run with land and be binding upon the Servient Estate and shall be binding upon the Grantor(s) heirs, devisees, successors in interest, and assigns. The Easement granted herein and all rights, obligations, and privileges created herein shall be appurtenant to and shall run with land and shall benefit and bind the Dominant Estate and shall be binding upon the Grantee(s) heirs, devisees, successors in interest, and assigns, and shall be binding upon the Rain Valley Homeowners Association, Inc. as delegate of the obligations and duties imposed upon the Rain Valley Property Owners provided herein.

2. **SCOPE OF EASEMENT**:

The scope of the Easement shall include, but not be limited to the following uses and purposes:

a. To permit the Grantees or a property owners association constituted of the parties (the "Rain Valley Homeowners Association, Inc"), other than the City of Flagstaff, to construct and maintain a roadway.

b. To permit the Grantees access to their properties over the Easement Area.

c. To permit the installation of public utilities within the Easement Area to benefit the Grantees and the Dominant Estate to benefit the Grantor(s).

d. To permit the City of Flagstaff's and other public safety personnel, including, but not limited to emergency medical, fire and police personnel, building inspectors, public

utility personnel and other public service personnel ingress and egress over, across and under the Easement Area.

3. **GRANTOR(S) RESERVATION OF RIGHT AND RESTRICTIVE COVENANTS:**

Grantor(s) reserves the right to utilize the roadway constructed upon the Easement Area for Grantor(s) use and of the use of Grantor(s) agents, employees, invitees, successors in interest, and assigns, subject to the obligations provided hereinafter. Grantor(s) specifically covenant and agree that Grantor(s) shall not interfere in any manner with the Grantees' and the City of Flagstaff's right to use and enjoy this Easement and shall not construct or permit the erection of any fence, building, structure or improvement or maintain any personal property or object that would interfere with the Grantee's and the City of Flagstaff's use and enjoyment of this Easement.

4. **MAINTENANCE OF THE ROADWAY:**

Grantor(s) shall have the duty to maintain and repair the existing and/or to be constructed roadway upon the Easement Area so as to comply with the minimum standard established by the City of Flagstaff for the Rain Valley Road, such minimum level established by the plans and specifications to construct the roadway approved by the City of Flagstaff on December 30, 2002, Grading Permit # EGRD-2002042, Project "Rain Valley Road Extension". Grantor(s) shall have the duty to insure by regular grading, snow removal and road maintenance that the roadway within the Easement Area shall be passable at all times throughout the year for regular access by the Grantees to their properties and for regular and emergency access by the City of Flagstaff. Grantor(s) shall comply with the above duties by becoming a member of and delegating the above duties to the Rain Valley Homeowners Association, an Arizona nonprofit corporation, (hereinafter the "Association") formed: to maintain the roadway within Section 3, Township 21

North, Range 8 East, Coconino County, Arizona; to maintain the roadway within the land owned by the State of Arizona pursuant to the Right of Way Sold at Public Auction, R/W No.16-102527, dated June 2, 1999, and to maintain the roadway within the land owned by the United States of America, administered by the Forest Service pursuant to Special Use Permit # EGRD-2002 042 , dated December 30, 2002 (hereinafter collectively referred to as the "Rain Valley Road"). Grantor(s)' execution of this Easement shall be deemed a consent to join the Association and a delegation of the duties described above. Grantee(s) execution of this Easement shall be deemed an acceptance of the Grantor(s) as a member(s) of the Association and the Association's acceptance of the above-described delegation by the member's unanimous written consent.

Grantor(s) and each Grantee accepting this Easement, as evidenced by their signature, but not the City of Flagstaff, agree to become members of the Association and as members of the Association agree to pay to the Association their proportionate cost of constructing and maintaining the Rain Valley Road to the minimum standard established by the City of Flagstaff, the State of Arizona, and the United States Forest Service. The proportionate cost shall be established by dividing the number of property owners within Section 3, Township 21 North, Range 8 East, Coconino County, Arizona into the number 1 to establish a percentage of contribution required to be paid by each member of the Association of the annual cost of maintenance of the Rain Valley Road as determined by the Association, or its designated management company.

Property owners/members who own more than one parcel or multiple property owners who own one parcel as identified by the Coconino County Assessor by the assignment of a tax parcel number within Section 3, Township 21 North, Range 8 East, Coconino County, Arizona shall be treated as one property owner/member. Property owners/member shall be determined by the names stated on the deed to their properties. Upon sale of any parcel, the seller shall no

longer be considered a Rain Valley Property Owner or member of the Association and the new buyer shall thereafter automatically be considered the Rain Valley Property Owner and member of the Association.

For example, if there are 27 parcel numbers shown on the records of the Coconino County Assessor, last revised on November 12, 2004 within Section 3, Township 21 North, Range 8 East, Coconino County, Arizona. Then of those 27 parcels there are presently 23 separate owners.

In the event of a lot split by any Rain Valley Property Owner, then in such event the number of owners would increase by the number of lots added and sold to third parties and such third parties shall be considered Rain Valley Property Owners and members of the Association. Thus, to determine the initial proportionate cost the number 23 shall be divided into the number 1 to reach a percentage to the fourth decimal or the sum of .04348 or 4.348 %, which will then be multiplied by the projected annual cost of road maintenance, for example and demonstration only $1,000.00, to establish a members proportionate cost of $43.48. (hereinafter the "Proportionate Cost").

5. **PAYMENT OF THE PROPORTIONATE COST:**

The Association, or its designated management company, shall establish a budget for annual maintenance of the Rain Valley Road for a period of one year (June 1st to May 30th of the succeeding year), on or before May 30th of each year, commencing May 30, 2006. The annual maintenance budget shall be mailed to all members on May 30th of each year for comment. On June 30th of each year, commencing June 30th 2006, the Association, or its designated management company, shall send by certified mail a written demand for payment to each member for payment of their Proportionate Cost, due and payable on July 30th of each year, commencing July 30, 2006.

The liability for a Rain Valley Property Owner's/member's Proportionate Cost of maintenance shall be a personal obligation of the property owner as of June 30th and shall be an in rem obligation of the parcels owned by the property owner. Payments not received by July 30th of each year, commencing July 30, 2006 shall be deemed delinquent and shall bear interest at the rate not less than twelve percent (12%) per annum or an interest rate established by the Association until paid. In the event litigation is necessary to recover a member's Proportionate Cost of road maintenance, the prevailing party shall be entitled to collect not only the member's proportionate cost and interest, but shall also be entitled to recover all attorney's fees and court cost. In the event that the Association, or its designated management company, determines that the projected annual budget is insufficient to maintain the Rain Valley Road as provided above or in the event any additional cost of maintenance is incurred by the Association, or its designated management company, not included within the projected annual budget, the Association, or the designated management company, shall have the right to make additional demands for payment which shall be due and payable thirty days from the date of the demand for payment and shall be governed by the above provisions.

Notwithstanding the foregoing, the 2005 assessment shall be paid by each member within 10 days following their execution of this Easement and shall become delinquent and bear interest 40 days following the execution of this Easement.

6. **LIEN TO SECURE PAYMENT OF PROPORTIONATE COST**:

To secure payment of a Rain Valley Road Property Owner'/member's Proportionate Cost for road maintenance Grantor(s) and each Grantee accepting the benefits of this Easement, as evidenced by their signature, excepting the City of Flagstaff, grants an assessment lien to the Rain Valley Homeowners Association which may be foreclosed as a mortgage pursuant to

A.R.S. Section 33-721. The Association may perfect its assessment lien by filing a notice of claim of lien with the Coconino County Recorders Office.

The Association, or its designated management company, for a reasonable fee to be established by the Association, or its designated management company, shall issue, upon tender of the fee, a certificate stating the present amount of the annual assessment, and whether or not the annual assessment has been paid in full, and/or whether there is any other indebtedness owed to the Association by the selling property owner. The buying property owner shall have the right to rely upon the accuracy of the certificate and shall not be liable for any Proportionate Cost demanded and unpaid prior to the date of the certificate.

7. **CITY OF FLAGSTAFF**:

The City of Flagstaff assumes no responsibility as to the condition of the roadway or Easement Area.

8. **INDEMNIFICATION**:

A. Each Grantee hereby covenants to indemnify, defend and save Grantor(s), the other Grantees, and the City of Flagstaff harmless from and against any liabilities for injuries or damages to persons or property arising out of that Grantee's use of the Easement or the use of the Easement by its officers' agents', employees' and invitees' which causes such injury.

B. Grantor(s) hereby covenant to indemnify, defend and save the Grantees and the City of Flagstaff harmless from and against any liabilities for injuries or damages to person or property arising out of Grantor(s) use of the roadway, Easement Area, or Servient Estate which causes such injury.

C. To the extent permitted by Arizona law, the City of Flagstaff hereby covenants to

indemnify, defend, and save Grantor(s) and Grantees harmless from and against any liabilities for injuries or damages to persons or property arising out of the City of Flagstaff's or its officers', agents', employees' and invitees' use of the Easement.

9. **INSURANCE, MANAGEMENT FEES, AND CONSTRUCTION COST AS AN ANNUAL COST OF MAINTENANCE**:

A. The Grantor(s) and the Grantees agree that the annual cost of general liability insurance with a policy limit to be approved by the directors of the Association, the payment of any management fee to manage the affairs of the Association, if contracted for by the Association, and the payment of such legal fees and accounting fees as are approved by the directors of the Association for management and enforcement of this Easement, shall be deemed a proper cost of road maintenance.

B. The Grantor(s) and the Grantees agree that the total cost of construction of the Rain Valley Road shall be in the sum of $202,324.72 and shall be deemed a proper cost of road maintenance. Each Grantee, by signing this Easement, agrees to pay their proportionate share of the total cost of construction as computed on Exhibit C, attached hereto and incorporated herein by this reference, in annual installments paid to the association as provided above in paragraph 5, except as provided in Exhibit C as to the 2005 assessment. Any Grantee may prepay the amount of, of balance of, their proportionate share of total cost of construction at any time upon notice to the association. Each Grantee shall be entitled to the credit against their proportionate share of total cost of construction for any prior payment of construction cost as provided in Exhibit C. By signing this Easement, each Grantee agrees to the credits as stated on Exhibit C and the 2005 assessment as stated on Exhibit C for each member. By signing this Easement, each Grantee agrees that the Association shall reimburse the following members for construction cost previously advanced:

1. For construction cost advanced by Jim Cullen and Mary Ann Cullen, (hereinafter "Cullen") in the sum of $72,400.00, the Association shall pay to Cullen an annual reimbursement at a rate equal to a ten year amortization bearing interest at eight percent (8%) per annum, in not more than quarterly payments of $2,646.64 or $10,586.54 per year.

2. For construction services and cost advanced by David and Lyla Pierce (hereinafter "Pierce") in the sum of $ 10,000.00, the Association shall pay to Pierce an annual reimbursement at a rate equal to a ten year amortization bearing interest at eight percent (8%) per annum, in not more than quarterly payment of $365.56 or $1,462.23 per year.

3. Except as provided above and/or in Exhibit C, no member shall have the right to claim a credit or offset for any other construction cost paid, or claim a credit against the other components of the annual assessment, including but not limited to: normal road maintenance expenses; snow removal; construction cost to complete the road and obtain the Engineer's Certificate; insurance premiums; management fees; attorneys fees; and accounting fees.

10. **QUITCLAIM AND ABANDONMENT OF PRIOR EASEMENTS**:

A. The parties hereby quitclaim and abandon any and all rights of the respective parties created pursuant to the easements listed below as recorded in Coconino County, Arizona:

a. Easement recorded August 20, 1999, at Instrument No. 3019121.
b. Easement recorded August 20, 1999, at Instrument No. 3019116.
c. Easement recorded August 20, 1999, at Instrument No. 3019123.
d. Easement recorded August 20, 1999, at Instrument No. 3019118.
e. Easement recorded August 20, 1999, at Instrument No. 3019119.
f. Easement recorded October 10, 1995 at Docket No. 1810, Page 768.
g. Easement recorded August 20, 1999, at Instrument No. 3019114.
h. Easement recorded August 20, 1999, at Instrument No. 3019122.

The parties further agree that this Rain Valley Road Easement Agreement supersedes and/or replaces the foregoing public easements.

B. The parties, excepting Dennis S. Bleeker, The Dennis S. Bleeker Living Revocable Trust, dated December 22, 1993; Glen and Julie Wilson; Clifford John MacKinlay and Deborah L. Smith-Seng; and Lee Ann Clements and Deyanne Barfield hereby quitclaim and abandon any and all rights of the respective parties created pursuant to the easements listed below as recorded in Coconino County, Arizona:

a. Easement recorded August 20, 1999, at Instrument No. 3019115.
b. Easement recorded August 20, 1999, at Instrument No. 3019117.
c. Easement recorded May 17, 2000, at Instrument No. 3050039.
d. Easement recorded June 2, 1999, at Instrument No. 3008804.

The parties, excepting those parties identified in this subsection B, further agree that this Rain Valley Road Easement Agreement supersedes and/or replaces the foregoing public easements.

11. **SEVERABILITY**:

In the event that any of the provisions, or portions thereof, of this Rain Valley Road Easement Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

12. **SUCCESSORS AND ASSIGNS**:

The terms, covenants and conditions of this Easement Agreement shall be binding upon and inure to the benefit of and shall apply to the Grantor(s), the Grantees and the City of Flagstaff and their respective heirs, devises, successors in interest and assigns, as the case may be.

13. **ATTORNEY'S FEES**:

A. If any actions shall be brought to recover any payment of a members Proportionate Cost for road maintenance, or for or on account of any breach of or to enforce or interpret any of

the terms, covenants or conditions of this Easement Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fee and cost incurred.

B. The parties acknowledge that the Rain Valley Road Easement Agreement (Agreement) was prepared by Thaddeus G. Baker Jr., Attorney at Law, on behalf of and in the course of his representation of Dennis Bleeker. Additionally, the parties acknowledge that Shorall McGoldrick Brinkmann represented Sandra and Michael Bailey; Aspey Watkins & Diesel, PLLC represented James J. and Mary Ann Cullen and Kathleen Cullen, aka Kathleen Callander; The Ledbetter Law Firm PLC represented David and Lila Pierce; and Faith, Ledyard, Nickel & Shelsky PLC represented Wilma Smith in this matter. The parties further acknowledge that they have been advised and have had the opportunity to seek the advice of independent counsel with respect to all aspects of this Agreement prior to signing this Agreement. Each party, excepting the represented parties listed herein with respect to their respective attorney and law firm, hereby acknowledges that the attorneys and law firms listed herein have not acted as their attorney in this matter, have not given them any legal advice, and waive any claim that the attorneys and law firms listed herein have acted for and/or on their behalf and/or for their benefit.

14. **NOTICES**:

All notices, demands or other writings provided to be given, made or sent to the Grantor(s), the Grantees or the City of Flagstaff shall be deemed to have been fully given, made or sent three days after being deposited in the United States mail, certified and postage prepaid and addressed to the notice address as set forth in Exhibit A and/or B, or as to the City of Flagstaff: City Manager, 211 W. Aspen Avenue, Flagstaff, Arizona 86001, or as to the Association at 1602 N. East Street, Flagstaff, Arizona, 86004. In the event the Association has retained a management company, notice to the Association shall require an additional notification to the management company. The address to which any notice, demand or other

writing may be given, made or sent to any party may be changed by written notice given by such party as above provided.

15. **EASEMENT AGREEMENT CONSTRUED AS WHOLE:**

The language in all parts of this Easement Agreement shall, in all cases, be construed as a whole according to its ordinary meaning and not strictly construed for or against any party.

16. **GRANTEES SIGNATURE IN COUNERPART:**

The Grantees to this Easement may sign this Easement Agreement in counterpart, which separate signature shall be contained as one of the pages of Exhibit B and shall be attached hereto prior to recordation in the County Recorders Office.

17. **TIME OF ESSENCE**:

Time is of the essence in this Easement Agreement and of every term covenant and condition herein.

18. **INCORPORATION:**

The Recitals, Exhibits and attachments to the Agreement and Exhibits are hereby incorporated as though fully set forth herein.

GRANTOR(S)

_____

(See Exhibit A for signature)

GRANTEES

_____

(See Exhibit B for signatures)

CITY OF FLAGSTAFF

By: Joseph C. Donaldson
Title: Mayor
Attest:

Margie Brown
City Clerk

Approved as to form:

M Jane for
City Attorney

EXHIBIT A

GRANTORS:

(Owner's Name) Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001, Velma V. Fanning and Lila M. Pierce

SERVIENT ESTATE

(Legal Description) See attached legal description for Parcel #113-05-3J

NOTICE ADDRESS Lila Pierce
2 Rain Valley Rd.
Flagstaff, AZ 86004

SIGNATURE Lila M. Pierce
Velma V. Fanning
Wilma V. Smith

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18 day of Nov, 2005, by Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001.

Notary Public

My Commission Expires:

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18 day of Nov, 2005, by Velma V. Fanning.

Notary Public

My Commission Expires:

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18 day of Nov, 2005, by Lila M. Pierce.

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public-State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No.: 113-05-003J

Owner: Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001, as to an undivided 1/3 interest; and Velma V. Fanning, as to an undivided 1/3 interest; and Lila M Pierce, as to an undivided 1/3 interest

Legal:

The South 660 feet of the Westerly 1650 feet of the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001, Lila M. Pierce & Wilma V. Fanning

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS Lila Pierce
2 Rain Valley Rd.
Flagstaff AZ 86004

SIGNATURE Wilma V. Fanning
Lila M. Pierce
Wilma V. Smith

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18th day of Nov., 2005, by Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001., Lila M. Pierce & Wilma V. Fanning

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

113-05-002B

The South half of the Northwest quarter of the Northwest quarter;
And the North half of the Southwest quarter of the Northwest quarter of Section 3,
Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian,
Coconino County, Arizona.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001, Velma V. Fanning and Lila M. Pierce.

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS Lila Pierce
2 Rain Valley Rd.
Flagstaff, AZ 86004

SIGNATURE Lila M. Pierce
Velma V. Fanning
Wilma V. Smith

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18 day of Nov, 2005, by Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001.

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

STATE OF ~~ARIZONA~~)
County of Coconino)

The foregoing Easement was acknowledged before me this 18 day of Nov, 2005, by Velma V. Fanning.

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18 day of NOV, 2005, by Lila M. Pierce.

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

113-05-002H

The South half of the North half of the Northwest quarter of the Northwest quarter;
And the West half of the Southwest quarter of the Northeast quarter of the Northwest quarter;
And the West half of the Northwest quarter of the Southeast quarter of the Northwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Sinforiano Ovalle and Luisa Ovalle, Trustees of The Ovalle Family Revocable Lifetime A-B Trust, dated February 11, 2000

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 7343 W Denton Lane
Glendale, Az 85303

SIGNATURE Luisa Ovalle
Sinforiano Ovalle

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 5th day of Dec., 2005, by Sinforiano Ovalle & Luisa Ovalle.

Notary Public

My Commission Expires:

Official Seal
SANDRA J. FLORES
Notary Public-State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No.: 113-05-002T

Owner: Sinforiano Ovalle and Luisa Ovalle, Trustees of The Ovalle Family Revocable Lifetime A-B Trust, dated February 11, 2000

Legal Description:

The Southwest quarter of the Southeast quarter of the Northwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

09/18/2015 11:37 AM

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) James J. Cullen and Mary Ann Cullen

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 1103 N. NAVAJO
FLAGSTAFF, AZ
86001

SIGNATURE Mary Ann Cullen
James J. Cullen

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 17 day of November, 2005, by James J. Cullen and Mary Ann Cullen.

Notary Public

My Commission Expires:

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF ARIZONA
COCONINO COUNTY
L.A. WHEELER
MY COMM.EXPIRES DECEMBER 16, 2007

Parcel No. 113-05-003E

Owner: James J. Cullen and Mary Ann Cullen, husband and wife as Community Property with Right of Survivorship

Legal Description:

That portion of the Northwest quarter of the Southeast quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

BEGINNING at the Center of said Section 3;

Thence South 89`00' East, a distance of 665.9 feet along the East-West mid-section line of said Section 3;

Thence South 00`08" West, a distance of 327.7 feet;

Thence North 89`00' West, a distance of 330.1 feet;

Thence South 00`08' East, a distance of 330.1 feet to a point on the West line of the Southeast quarter of said Section 3;

Thence Northerly a distance of 983.2 feet, more of less, along said West line to the Point of Beginning.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Dave Pierce and Lila Pierce, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS Lila Pierce
2 Rain Valley Rd.
Flagstaff, AZ 86004

SIGNATURE Dave Pierce
Lila Pierce

STATE OF ARIZONA)
County of Coconino)

NOV The foregoing Easement was acknowledged before me this 16 day of 2005, by Dave Pierce and Lila Pierce, husband and wife .

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. 113-05-003G

Owner: Dave Pierce and Lila Pierce, husband and wife as Joint Tenants with Right of Survivorship

Legal:

The North 330 feet of the South 1320 feet of the Westerly 1650 feet of the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Billy B. Lane and Lola Lane and Billy D. Lane and Claudia Bernard

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS Billy B. LANE
3710 E El Paso Dr
Flagstaff, Az 86004

SIGNATURE Billy Bob Lane
Lola Lane
Claudia Bernard
Billy D. Lane

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 17 day of Nov., 2005, by Billy Bob Lane, Lola Lane, Claudia Bernard

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 8 day of Nov., 2005, by Billy D. Lane.

Notary Public

My Commission Expires:

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. 113-05-003L

Owner: Billy B. Lane and Lola Lane and Billy D. Lane and Claudia Bernard, all as Joint Tenants with Right of Survivorship, subject to the community property interest of any spouses of the above

Legal Description:

The North 983.2 feet of the East 1013.4 feet of the Southwest quarter of Section 3, Township 21 North, Range 8 East, of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS Wilma V. Smith
7133 W. Wier Ave.
Phx. AZ. 85043

SIGNATURE Wilma V. Smith

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18 day of Nov, 2005, by Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001.

Notary Public

My Commission Expires:

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public-State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. 113-05-003M

Owner: Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001

Legal:

The North 330 feet of the South 990 feet of the Westerly 1650 feet of the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Michael C. Bailey and Sandra D. Bailey, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 12180 E RUSTLER RD
FLHS STAFF HZ
86004

SIGNATURE Sandy Bailey
Michael Bailey

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 17th day of November, 2005, by Sandy Bailey & Michael Bailey.

OFFICIAL SEAL
JANET M. HEDLUND
NOTARY PUBLIC - State of Arizona
COCONINO COUNTY
My Comm. Expires July 19, 2009

Janet M Hedlund
Notary Public

My Commission Expires:

Parcel No: 113-05-003P

Owner: Michael C. Bailey and Sandra D. Bailey, husband and wife as Community Property with Right of Survivorship

Legal Description:

A tract of land in the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

BEGINNING at a point on the South line of said Southwest quarter that lies South 89° 49' East, a distance of 1650 feet from the Southwest corner of said Southwest quarter;

thence South 89° 49' East, a distance of 354 feet along said South line;

thence North 00° 08' East, a distance of 983.1 feet;

thence South 89° 49' East, a distance of 330.2 feet;

thence North 00° 08' East, a distance of 665.5 feet;

thence North 89° 49' West, a distance of 683.3 feet;

thence Southerly, a distance of 1638.6 feet, more or less, to the POINT OF BEGINNING.

EXCEPTING THEREFROM the following described parcel:

FOR REFERENCE, begin at the Southwest corner of said Section 3, a BLM Brass Cap set in 1972;

thence South 89°49' 00" East (Basis of Bearings per Docket 1188, page 584, records of Coconino County, Arizona) along the South line of said Section 3, a distance of 1649.18 feet to the Southwest corner of the aforementioned parcel:

thence North 00° 24' 41" East along said West line a distance of 617.91 feet to the TRUE POINT OF BEGINNING;

thence continue North 00° 24' 41" East along said line, a distance of 563.09 feet to the Northwest corner of the aforementioned parcel;

thence 89° 49' 00" East along said North line, a distance of 678.47 feet to the Northeast corner of said parcel;

thence South 00° 07' 57" West along said East line, a distance of 197.89 feet;

thence North 89° 48' 58" West, a distance of 330.20 feet;

thence South 00° 07' 56" West, a distance of 365.20 feet;

thence North 89° 49' 00' West, a distance of 351.00 feet back to the TRUE POINT OF BEGINNING.

AND ALSO EXCEPTING THEREFROM the following described parcel:

FOR REFERENCE begin at the Southwest corner of said Section 3, a BLM Brass Cap set it 1972;

thence South 89° 49' 00" East (Basis of Bearings per Docket 1188, page 584), along the South line of said Section 3, a distance of 1649.18 feet to the TRUE POINT OF BEGINNING;

thence North 00° 24' 41" East, along the West line of the aforementioned parcel, a distance of 617.91 feet;

thence South 89° 49' 00" East, a distance of 351.00 feet to a point on the East line of the aforementioned parcel;

thence South 00° 08' 00" West along said East line, a distance of 617.90 feet to a point on the South line of said Section 3 and the Southeast corner of the aforementioned parcel;

thence North 89° 49' 00' West along said line, a distance of 354.00 feet to the TRUE POINT OF BEGINNING.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Mario Evola and Lynn Evola, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 595 Andante Dr
Sedona AZ 86336

SIGNATURE Lynn Evola
Mario Evola

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 23rd day of Nov., 2005, by Mario and Lynn Evola.

Evelyn Kerley
Notary Public

My Commission Expires:
Sept. 16, 2007

OFFICIAL SEAL
EVELYN KERLEY
NOTARY PUBLIC - State of Arizona
COCONINO COUNTY
My Comm. Expires Sept. 16, 2007

Parcel No.: 113-05-003R

Owner: Mario Evola and Lynn Evola, husband and wife as Community Property with Right of Survivorship

Legal Description:

A parcel of land being a portion of that parcel of land described in Docket 1188, page 584, records of Coconino County, Arizona, located in the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

FOR REFERENCE, begin at the Southwest corner of said Section 3, a BLM Brass Cap set in 1972;

thence South 89°49' 00" East (Basis of Bearings per Docket 1188, page 584, records of Coconino County, Arizona) along the South line of said Section 3, a distance of 1649.18 feet to the Southwest corner of the aforementioned parcel:

thence North 00° 24' 41" East along said West line a distance of 617.91 feet to the TRUE POINT OF BEGINNING;

thence continue North 00° 24' 41" East along said line, a distance of 563.09 feet to the Northwest corner of the aforementioned parcel;

thence 89° 49' 00" East along said North line, a distance of 678.47 feet to the Northeast corner of said parcel;

thence South 00° 07' 57" West along said East line, a distance of 197.89 feet;

thence North 89° 48' 58" West, a distance of 330.20 feet;

thence South 00° 07' 56" West, a distance of 365.20 feet;

thence North 89° 49' 00' West, a distance of 351.00 feet back to the TRUE POINT OF BEGINNING.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Dayle L. Henson and Cherie L. Henson, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 7107 W. Freedline dr.
Flagstaff, AZ 86004

SIGNATURE Dayle L. Henson
Cherie L. Henson

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 28 day of Dec, 2005, by Dayle L. Henson & Cherie L. Henson.

Notary Public

My Commission Expires:

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public-State of Arizona
County
Exp. Jan. 4, 2008.

Parcel No. 113-05-003S

Owner: Dayle L. Henson and Cherie L. Henson, husband and wife as Community Property with Right of Survivorship

Legal Description:

A parcel of land being a portion of that parcel of land described in Docket 1188, page 584, records of Coconino County, Arizona, located in the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

FOR REFERENCE begin at the Southwest corner of said Section 3, a BLM Brass Cap set it 1972;

thence South 89° 49' 00" East (Basis of Bearings per Docket 1188, page 584), along the South line of said Section 3, a distance of 1649.18 feet to the TRUE POINT OF BEGINNING;

thence North 00° 24' 41" East, along the West line of the aforementioned parcel, a distance of 617.91 feet;

thence South 89° 49' 00" East, a distance of 351.00 feet to a point on the East line of the aforementioned parcel;

thence South 00° 08' 00" West along said East line, a distance of 617.90 feet to a point on the South line of said Section 3 and the Southeast corner of the aforementioned parcel;

thence North 89° 49' 00' West along said line, a distance of 354.00 feet to the TRUE POINT OF BEGINNING.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Robert F. Musil and Linda K. Musil, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 5040 E. Daphne Lane
Flagstaff, AZ 86001

SIGNATURE

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 23 day of Nov, 2005, by Robert F. Musil & Linda K. Musil

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public-State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. 113-05-003V

Owner: Robert F. Musil and Linda K. Musil, husband and wife as Community Property with Right of Survivorship

Legal Description:

The Northwest quarter of the Southwest quarter of the Southwest quarter of the Northeast quarter;, and the Southwest quarter of the Northwest quarter of the Southwest quarter of the Southeast quarter; and the Northwest quarter of the Northwest quarter of the Southwest quarter of the Northeast quarter; and the Northeast quarter of the Northwest quarter of the Southwest quarter of the Northeast quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Steven Ashley, Jr. and Barbara Joann Ashley, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS P.O. Box 1987
Tuba City, AZ 86045

SIGNATURE

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 15 day of Dec, 2005, by Steven Ashley Jr & Barbara Joann Ashley.

Notary Public

My Commission Expires:

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. 113-05-005

Owner: Steven Ashley, Jr. and Barbara Joann Ashley, husband and wife

Legal Description:

A portion of the Southeast quarter of the Northwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

FOR REFERENCE, begin at the West quarter corner of said Section 3, a marked stone;

Thence South 88`20'16" East, along the mid-section line of said Section 3, a distance of 1969.08 feet;

Thence North 00`07'22" West, a distance of 344.01 feet to the TRUE POINT OF BEGINNING;

Thence continue North 00`07'22" West, a distance of 345.94 feet;

Thence South 88`31'38" East, a distance of 700.88 feet to a point of the North-South mid-section line of said Section 3;

Thence South 00`21'33" East, along said North-South mid-section line, a distance of 346.18 feet;

Thence South 88`30'40" West, a distance of 702.35 feet to the Point of Beginning.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Kathleen Cullen, aka Kathleen Callander

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 6100 E. Suede
Flagstaff, Az 86004

SIGNATURE Kathleen Callander

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 17 day of November, 2005, by Kathleen Cullen, aka Kathleen Callander.

Notary Public

My Commission Expires:

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF ARIZONA
COCONINO COUNTY
L.A. WHEELER
MY COMM.EXPIRES DECEMBER 16, 2007

Parcel No. 113-05-006

Owner: Kathleen Cullen, a single woman

Legal Description:

A portion of the Southeast quarter of the Northwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

FOR REFERENCE, begin at the West quarter corner of said Section 3, a marked stone;

Thence South 88`20'16" East, along the mid-section line of said Section 3, a distance of 1969.08 feet to the TRUE POINT OF BEGINNING;

Thence South 88`20'16" East, a distance of 703.84 feet to a point of the North-South mid-section line of said Section 3;

Thence North 00`21'33" West, along said North-South mid-section line, a distance of 346.18 feet;

Thence South 88`30'40" West, a distance of 702.35 feet.

Thence South 00`07'22" East, a distance of 344.01 feet, to the Point of Beginning

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Wendy Jorgenson

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS P.O. Box 3959
FLAGSTAFF, AZ 86003

SIGNATURE

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18 day of Nov., 2005, by Wendy Jorgenson.

Notary Public

My Commission Expires:

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. 113-05-007

Owner: Wendy Jorgenson, a married woman as her sole and separate property

Legal description:

A portion of the Southwest quarter of the Northeast quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

FOR REFERENCE, begin at the West quarter corner of said Section 3, a marked stone;

Thence South 88`20'16" East, along the East-West mid-section line of said Section 3, a distance of 1672.92 feet to the Center of said Section 3, said point being the TRUE POINT OF BEGINNING;

Thence continue South 88`20'16" East, along said mid-section line a distance of 669.66 feet to a point;

Thence North 00`30'13" West, a distance of 342.53 feet to a point;

Thence North 88`01'21" West, a distance of 668.94 feet to a point of the North-South mid-section line of said Section 3;

Thence South 00`21'33" East, along said mid-section line, a distance of 346.18 feet to the Point of Beginning;

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Robert D. Smith, Trustee of the Robert D. Smith Revocable Trust, under Agreement dated September 1, 2002

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 2812 N ROSE ST
FLAGSTAFF, ARIZ. 86004

SIGNATURE Robert W. Smith

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 8 day of NOV., 2005, by ROBERT D. SMITH.

Notary Public

My Commission Expires:

OFFICIAL SEAL
SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. : 113-05-008

Owner: Robert D. Smith, Trustee of the Robert D. Smith Revocable Trust, under Agreement dated September 1, 2002

That portion of the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, shown as Parcel No. 1 on Record of Survey recorded in Book 4 of Maps, page 82, records of Coconino County, Arizona, and described as follows:

COMMENCING for reference at the West quarter corner of said Section 3;

Thence South 00`41'33" West, along the West line of Section 3, a distance of 264.23 feet to the TRUE POINT OF BEGINNING;

Thence South 88`19'32" East, a distance of 1651.41 feet to a point, said point being the Northeast corner of said Parcel 1;

Thence South 00`4``33" West, a distance of 264.23 feet to the Southeast corner of said Parcel 1;

Thence North 88`19'32" West, a distance of 1,651.41 feet to the West section line of said Section 3, and the Southeast corner of said Parcel 1;

Thence North 00`41'33" East, a distance of 264.23 feet, more or less to the Point of Beginning.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS Wilma V. Smith
7133 W. Wier Ave.
Phoenix, Az 85043

SIGNATURE Wilma V. Smith

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 18th day of Nov., 2005, by Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001.

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. : 113-05-009

Owner: Wilma V. Smith, Trustee of The Wilma V. Smith Revocable Trust, under agreement dated August 1, 2001

That portion of the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, shown as Parcel No. 2 on Record of Survey recorded in Book 4 of Maps, page 82, records of Coconino County, Arizona, and described as follows:

COMMENCING for reference at the West quarter corner of said Section 3;

Thence South 00`41'33" West, along the West line of Section 3, a distance of 528.46 feet to the TRUE POINT OF BEGINNING;

Thence South 88`19'32" East, a distance of 1651.41 feet to a point, said point being the Northeast corner of said Parcel 2;

Thence South 00`4``33" West, a distance of 264.23 feet to the Southeast corner of said Parcel 2;

Thence North 88`19'32" West, a distance of 1,651.41 feet to the West section line of said Section 3, and the Southeast corner of said Parcel 2;

Thence North 00`41'33" East, a distance of 264.23 feet, more or less to the Point of Beginning.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Dave Pierce and Lila Pierce, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS Lila Pierce
2 Rain Valley Rd.
Flagstaff, AZ 86004

SIGNATURE Wayne Pierce
Lila Pierce

STATE OF ARIZONA)
County of Coconino)

Nov The foregoing Easement was acknowledged before me this 20 day of , 2005, by Dave Pierce and Lila Pierce, husband and wife .

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public–State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

Parcel No. 113-05-010

Owner: Dave G. Pierce and Lila M. Pierce, husband and wife as Joint Tenants with Right of Survivorship

Legal:

That portion of the Southwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, shown as Parcel No. 3 on Record of Survey recorded in Book 4 of Maps, page 82, records of Coconino County, Arizona, and described as follows:

COMMENCING for reference at the West quarter corner of said Section 3;

Thence South 00`41'33" West, along the West line of Section 3, a distance of 729.69 feet to the TRUE POINT OF BEGINNING;

Thence South 88`19'32" East, a distance of 1651.41 feet to a point, said point being the Northeast corner of said Parcel 3;

Thence South 00`4``33" West, a distance of 528.45 feet to the Southeast corner of said Parcel 3;

Thence North 88`19'32" West, a distance of 1,651.41 feet to the West section line of said Section 3, and the Southeast corner of said Parcel 3;

Thence North 00`41'33" East, a distance of 528.45 feet, more or less to the Point of Beginning.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) James H. Rhodes and Virginia J. Rhodes, husband and wife and Jerry D. Rhodes and Sharon K. Rhodes, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS _____

_____

_____

SIGNATURE James H Rhodes

Virginia J. Rhodes

Jerry D Rhodes

Sharon Rhodes

STATE OF ARIZONA)
County of Yavapai)

The foregoing Easement was acknowledged before me this 28 day of Nov, 2005, by James H Rhodes & Virginia J Rhodes.

Notary Public State of Arizona
Maricopa County
Bonnie J Sims
Expires July 28, 2006

Notary Public

My Commission Expires:

STATE OF CALIFORNIA)
County of San Joaquin)

The foregoing Easement was acknowledged before me this 5th day of December, 2005, by Debbie Ryan
JERRY D. RHODES & SHARON RHODES.

Notary Public

My Commission Expires:

DEBBIE RYAN
COMM. #1450018
NOTARY PUBLIC CALIFORNIA
SAN JOAQUIN COUNTY
MY COMM. EXP. NOVEMBER 8, 2007

Parcel No. 113-05-013

Owner: James H. Rhodes and Virginia J. Rhodes, husband and wife as Joint Tenants with Right of Survivorship as to an undivided ½ interest and Jerry D. Rhodes and Sharon K. Rhodes, husband and wife as Joint Tenants with Right of Survivorship, as to an undivided ½ interest

Legal description:

The Northeast quarter of the Southeast quarter of the Northwest quarter; and the East half of the Northwest quarter of the Southeast quarter of the Northwest quarter; and the Southeast quarter of the Southwest quarter of the Northeast quarter of the Northwest quarter; and the South of the Southeast quarter of the Northeast quarter of the Northwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona,

EXCEPTING THEREFROM the following described property:

A parcel of land, situate in Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, being a portion of the Southeast quarter of the Southwest quarter of the Northeast quarter of the Northwest quarter and the Northeast quarter of the Southeast quarter of the Northwest quarter and the East half of the Northwest quarter of the Southeast quarter of the Northwest quarter of said Section 3, more particularly described as follows:

BEGINNING for reference at the Center quarter corner of said Section 3, which is a city of Flagstaff Aluminum cap monument;

thence North 00° 13' 33" West along the mid-section line of Section 3, a distance of 347.04 feet to a found ½ inch rebar;

thence North 00° 06' 31" West along the mid-section line of Section 3, a distance of 346.09 feet to a found ½ inch rebar, to the TRUE POINT OF BEGINNING;

thence North 88° 09' 23" West along the South line of the Northeast quarter of the Southeast quarter of the Northwest quarter of said Section 3, a distance of 459.62 feet;

thence North 00° 03' 01" West, a distance of 1041.75 feet, to the North line of the South half of the Southeast quarter of the Northeast quarter of the Northwest quarter of said Section 3;

thence South 88° 29' 57" East, along the North line of the South half of the Southeast quarter of the Northeast quarter of the Northwest quarter of said Section 3, a distance of 459.54 feet to the mid-section line of said Section 3;

thence South 00° 05' 49" East, along said mid-section line, a distance of 347.53 feet;

thence South 00° 01' 38" East, along said mid-section line, a distance of 696.98 feet, back to the TRUE POINT OF BEGINNING.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) George Aukon and Tamara Aukon, husband and wife, and Earl P.N. Duque and Renee J. McLeod, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 649 N. PINECLIFF DR.
FLAGSTAFF, AZ 86001

SIGNATURE

T. Bycott
(Signature for George Aukon as his attorney in fact

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 26th day of Dec., 2005, by _____.

My Commission Expires:

JENNIFER LARA BELLUCCI - NOTARY PUBLIC
MY COMMISSION EXPIRES
12-19-2006
COCONINO CO. AZ

Jennifer Lara Bellucci
Notary Public

Parcel No. 113-05-014A

Fee Title: George Aukon and Tamara Aukon, husband and wife as Joint Tenants with Right of Survivorship

Equitable Title: Earl P.N. Duque and Renee J. McLeod, husband and wife

Legal Description:

A parcel of land, situate in Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, being a portion of that parcel described in Docket 1816, page 962, records of Coconino County, Arizona, described as follows:

BEGINNING for reference at the Center quarter corner of said Section 3, which is a city of Flagstaff Aluminum cap monument;

thence North 00° 13' 33" West along the mid-section line of Section 3, a distance of 347.04 feet to a found ½ inch rebar;

thence North 00° 06' 31" West along the mid-section line of Section 3, a distance of 346.09 feet to a found ½ inch rebar;;

thence North 88° 09' 23" West along the South line of the Northeast quarter of the Southeast quarter of the Northwest quarter of said Section 3, a distance of 250.56 feet, to the TRUE POINT OF BEGINNING

thence North 88°09'23" West, along the South line of the Northeast quarter of the Southeast quarter of the Northwest quarter of said Section 3, a distance of 209.06 feet;

thence North 00° 03' 01" West, a distance of 1041.75 feet, to the North line of the South half of the Southeast quarter of the Northeast quarter of the Northwest quarter of said Section 3;

thence South 88° 29' 57" East, along the North line of the South half of the Southeast quarter of the Northeast quarter of the Northwest quarter of said Section 3, a distance of 209.02 feet;

thence South 00° 03' 41" East, a distance of 1043.00 feet, back to the TRUE POINT OF BEGINNING.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Polina Aukon, a single woman, and
Jana Aukon and Silas Page, husband and wife, and
George Aukon and Tamara Aukon, husband and wife

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS PO Box 1944, FLAGSTAFF, AZ 86002

SIGNATURE Jana Aukon for George Aukon by Jana Aukon as his attorney in fact

Polina Aukon

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 26 day of Nov., 2005, by Silas Page, Jana Aukon & Jana Aukon BSAIF for George Aukon

Notary Public

My Commission Expires:

SANDRA J. FLORES
Notary Public-State of Arizona
Coconino County
My commission expires Jan. 4, 2008.

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 5 day of December, 2005, by Tamara Aukon.

OFFICIAL SEAL
CELESTINA M. QUEZADA
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires Sept. 4, 2009

Notary Public

My Commission Expires:

STATE OF ARIZONA)

County of ~~Coconino~~ Pima)

The foregoing Easement was acknowledged before me this 30 day of November, 2005, by Polina Aukon.

Notary Public

My Commission Expires: 2-19-2006

OFFICIAL SEAL
PAT I. TRIEM
NOTARY PUBLIC-ARIZONA
PIMA COUNTY
My Comm. Expires Feb. 19, 2006

Parcel No. 113-05-014 (B)

Owner: Polina Aukon, a single woman and Jana Aukon and Silas Page, husband and wife, and George Aukon and Tamara Aukon, husband and wife all as Joint Tenants with Right of Survivorship

Legal Description:

A parcel of land, situate in Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, being a portion of the Southeast quarter of the Southwest quarter of the Northeast quarter of the Northwest quarter and the Northeast quarter of the Southeast quarter of the Northwest quarter and the East half of the Northwest quarter of the Southeast quarter of the Northwest quarter of said Section 3, more particularly described as follows:

BEGINNING for reference at the Center quarter corner of said Section 3, which is a city of Flagstaff Aluminum cap monument;

thence North 00° 13' 33" West along the mid-section line of Section 3, a distance of 347.04 feet to a found ½ inch rebar;

thence North 00° 06' 31" West along the mid-section line of Section 3, a distance of 346.09 feet to a found ½ inch rebar, to the TRUE POINT OF BEGINNING;

thence North 88° 09' 23" West along the South line of the Northeast quarter of the Southeast quarter of the Northwest quarter of said Section 3, a distance of 250.56 feet;

thence North 00° 03' 01" West, a distance of 1043.00 feet, to the North line of the South half of the Southeast quarter of the Northeast quarter of the Northwest quarter of said Section 3;

thence South 88° 29' 57" East, along the North line of the South half of the Southeast quarter of the Northeast quarter of the Northwest quarter of said Section 3, a distance of 250.51 feet to the mid-section line of said Section 3;

thence South 00° 05' 49" East, along said mid-section line, a distance of 347.53 feet;

thence South 00° 01' 38" East, along said mid-section line, a distance of 696.98 feet, back to the TRUE POINT OF BEGINNING.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) August L. Clancy and Deborah H. ~~Clancy~~ KORDON

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS 8 RAIN VALLEY ROAD
FLAGSTAFF, AZ 86004

SIGNATURE August L. Clancy
Deborah H. Kordon

STATE OF ARIZONA)
County of Coconino)

The foregoing Easement was acknowledged before me this 28 day of 2006 by JAN, Deborah Kordon/August Clancy.

Notary Public

My Commission Expires:

JUNE 15 2009

AMY EGAN
Notary Public - Arizona
Coconino County
My Commission Expires
June 15, 2009

Parcel No. 113-05-003T

Owner: August L. Clancy and Deborah H. Kordon, husband and wife as Joint Tenants with Right of Survivorship

Legal Description: The Northeast quarter of the Southwest quarter of the Southwest quarter of the Northeast quarter; and the Southeast quarter of the Northwest quarter of the Southwest quarter of Northeast quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona.

EXHIBIT B

GRANTEES: **Page____ of _____ Pages**

(Owner's Name) Dennis S. Bleeker, The Dennis S. Bleeker Living Revocable Trust, dated December 22, 1993

DOMINANT ESTATE

(Legal Description) See attached legal descriptions

NOTICE ADDRESS PO Box 1046
Lukeville, AZ 85341

SIGNATURE Dennis Bleeker

STATE OF ARIZONA)
County of Coconino)

Feb, The foregoing Easement was acknowledged before me this 22nd day of 2006, by _____.

Tiffany Wernette
Notary Public

My Commission Expires:

OFFICIAL SEAL
TIFFANY A. WERNETTE
NOTARY PUBLIC - State of Arizona
COCONINO COUNTY
My Comm. Expires Jan. 29, 2010

Parcel No. 113-05-012A

Owner: Dennis S. Bleeker, a single man and Dennis S. Bleeker , as Trustee of the Dennis S. Bleeker Living Revocable Trust, dated December 22, 1993

Legal Description:

A Parcel being a parcel described in Docket 2049, page 848, and a portion of a parcel described in Instrument No. 3043967, and located in the South half of the Southwest quarter of the Northwest quarter of Section 3, Township 21 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

FOR REFERENCE begin at the Northwest corner of said Section 3;

Thence South 00`08'00" West (Basis of bearings per Book 4 of Surveys, page 82, records of Coconino County, Arizona) along the West line of said Section 3 and said Parcel described in Docket 2049, page 848, a distance of 2391.88 feet to the Northwest corner of the South half of the South half of the Southwest quarter of the Northwest quarter of Section 3, being a ½ inch rebar capped RLS 29844 and also being the TRUE POINT OF BEGINNING;

Thence South 88`23'38" East, along the North line of said parcel, and the North line of the South half of the South half of the Southwest quarter of the Northwest quarter of said Section 3, a distance of 650.50 feet to a ½ inch rebar capped RLS 29884;

Thence South 00`08'22" West, a distance of 344.50 feet to a ½ inch rebar capped RLS 29884, being a point on the South line of said parcel described in Instrument # 3043967 and the East-West mid-section line of Section 3;

Thence North 88`18'37" West, along the South line of said parcel, and along the East-West mid-section line, a distance of 650.49 feet to the West quarter corner of said Section 3;

Thence North 00`08'00" East, along the West line of said parcel described in Docket 2049, page 848 and said Section 3, a distance of 343.55 feet to the Point of Beginning.

EXHIBIT C
RAIN VALLEY ROAD CONSTRUCTION COSTS, SCHEDULE OF 2005 ASSESSMENTS FOR CONSTRUCTION COSTS, AND 2005/2006 ASSESSMENT FOR ROAD MAINTENANCE

Rain Valley Road Construction Costs

Crushed Asphalt, paid by Jim Cullen	$60,000.00	
Trucking, paid by Jim Cullen	$ 7,000.00	
Culvert, paid by Jim Cullen	$ 5,400.00	
Sub-Total - Amounts paid by Jim Cullen:		$72,400.00
Engineering	$ 6,500.00	
Geo Tech	$ 3,075.00	
Summit Survey	$ 2,000.00	
AZ Test Lab	$ 2,000.00	
Survey	$ 1,500.00	
Sub-Total - First Round of Engineering, etc:		$15,075.00
Advertising for State Access	$ 1,000.00	
Appraisal for State Access	$10,000.00	
Sub-Total - State Access:		$11,000.00
Northland Survey	$ 3,200.00	
AZ Test Lab	$ 1,595.00	
Engineering (C. Laguna)	$ 1,204.72	
Sub-Total - Additional Engineering, etc.		$ 5,999.72
P & S Equipment:		$10,000.00
Billy Bob Lane:		$ 3,640.00
City of Flagstaff Permit:		$ 260.00
Auza's Bid to Complete Work:		$76,350.00
Pioneer Title Fees:		$ 1,100.00
Tony Cullum Fees ($11,000.00, but Owners who paid agree to $6,500.00)		$ 6,500.00
Total Rain Valley Road Construction Costs:		**$202,324.72**
Per Owner, Divided Among Twenty-Three Owners/Members*:		**$ 8,796.73†**

Rev. 11/16/05

Schedule of 2005 Assessments for Rain Valley Road Construction Costs
(Subject to revision based on the actual number of Owners/Members
who are parties to this Rain Valley Road Easement Agreement)

Parcel	Owner	Proportionate Share of Construction Cost†	Credits	Total Due from Owner	Total Received As of 11/16/05
2B	Fanning/Wilma Smith, Trustee	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
2H	Wilma Smith, Trustee	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
2K	Copeland	$8,796.73		$8,796.73	
2T	Ovalle	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
3E	Cullen	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering) $1,100.00 (Pioneer Title) $6,392.14 (Cullum)	$4.59	
3G	Pierce/P&S Equipment	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
3J	Wilma Smith, Trustee	*		*	
3L	Lane	$8,796.73	$ 50.00 (State Access) $3,640.00 (Extra Easement)	$5,106.73	
3M	Wilma Smith, Trustee	*		*	

Rev. 11/16/05

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09/18/2015 11:37 AM

Parcel	Owner	Proportionate Share of Construction Cost†	Credits	Total Due from Owner	Total Received As of 11/16/05
3P	Bailey	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
3R	Evola	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
3S	Hensen	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
3T	Clancy	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
3V	Musil	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering) $6,921.43 (Various Expenses) $2,650.00 (State Access)	($2,074.70)	
5	Ashley	$8,796.73		$8,796.73	
6	Cullen/Callender	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
7	Jorgenson	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering) $6,921.43 (Various Expenses)	$575.30	
8	Bob Smith, Trustee	$8,796.73		$8,796.73	

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Parcel	Owner	Proportionate Share of Construction Cost†	Credits	Total Due from Owner	Total Received As of 11/16/05
9	Wilma Smith, Trustee	*		*	
10	Pierce/P&S Equipment	*		*	
11F	Wilson	$8,796.73	$ 183.33 (State Access) $ 250.00 (Engineering)	$8,363.40	
11G	MacKinlay/Smith-Seng	$8,796.73	$ 183.33 (State Access) $ 250.00 (Engineering)	$8,363.40	
11H	Clements/Barfield	$8,796.73	$ 183.33 (State Access) $ 250.00 (Engineering)	$8,363.40	
12A	Bleeker, Trustee	$8,796.73	$ 50.00 (State Access)	$8,746.73	
13	Rhoades	$8,796.73	$ 550.00 (State Access) $ 750.00 (Engineering)	$7,496.73	
14A	Duque	$8,796.73	$ 275.00 (State Access)	$8,521.73	
14B	Aukon, Page	$8,796.73	$ 275.00 (State Access)	$8,521.73	
TOTALS:					
27 parcels	23 Owners	$202,324.79	$46,474.99**	$155,849.80	

*Property owners who own more than one parcel and multiple property owners who own one parcel together shall be treated as one property owner.

†All costs and assessments set forth in this Exhibit C are calculated and contingent upon the Association consisting of twenty-three (23) Owners/Members. Each party's ultimate proportionate share shall be determined based on the actual number of Owners/Members who are parties to this Rain Valley Road Easement Agreement.

**Total Credits equal the amount all ready paid out ($42,835.00) plus the amount of the payment to Billy Bob Lane ($3,640.00).

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09/18/2015 11:37 AM

2005/2006 Assessment for Road Maintenance

The 2005/2006 Assessment for Road Maintenance shall be estimated at $750.00 per property owner. Property owners who own more than one parcel and multiple property owners who own one parcel together shall be treated as one property owner.

Clark Final Plat

PZ-21-00193-02

Final Plat Approval Request

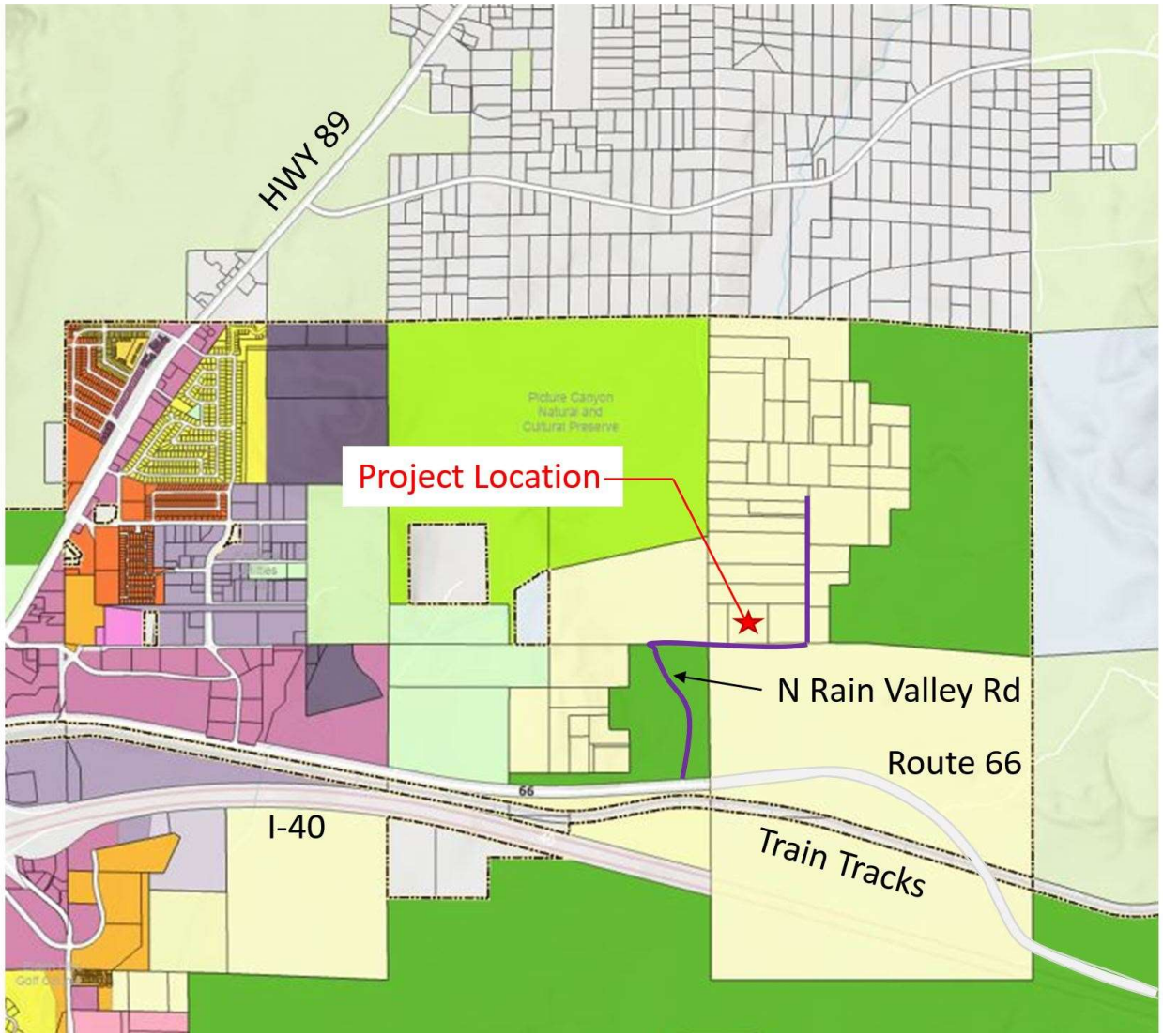
City Council| April 5, 2022

Patrick St. Clair| Planning Development Manager

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Vicinity Map

6275 N Rain Valley Rd.



Request Overview

- Request from Craig and Christina Clark, the property owners, for **Final Plat approval** for a two-lot subdivision on 10 acres at 6275 N Rain Valley Rd in the Rural Residential (RR) Zone:
  - Proposal creates two 5-acre lots from an existing 10-acre parcel (APN 113-05-019)
- **Modified Subdivision Process required:**
  - Concept Plat and Final Plat approval required for proposal.
  - Original parcel exceeds 2 ½ acres, proposal does not exceed 4 new lots.
  - Will allow separate ownership and development of each lot in the proposed subdivision.

Development Overview

- **Approval history**
  - Staff approved Concept Plat on January 10, 2022.
  - Staff approved Final Plat with conditions on February 23, 2022.
- **Key aspects of Final Plat development request:**
  - No dedications or abandonment of real property is proposed.
  - Under the heading of “City of Flagstaff Notes”, the plat clarifies that the subdivision is outside of the Urban Growth Boundary.
  - Under the heading of “City of Flagstaff Notes”, the Final Plat clarifies the subdivision is in the Resource Protection Overlay (RPO) and shows resource protection standards of 50% for on-site tree resources the (RR) zone.
  - The new lots are compliant with the area and dimension standards for new parcels in the Rural Residential (RR) zone.

Clark Final Plat

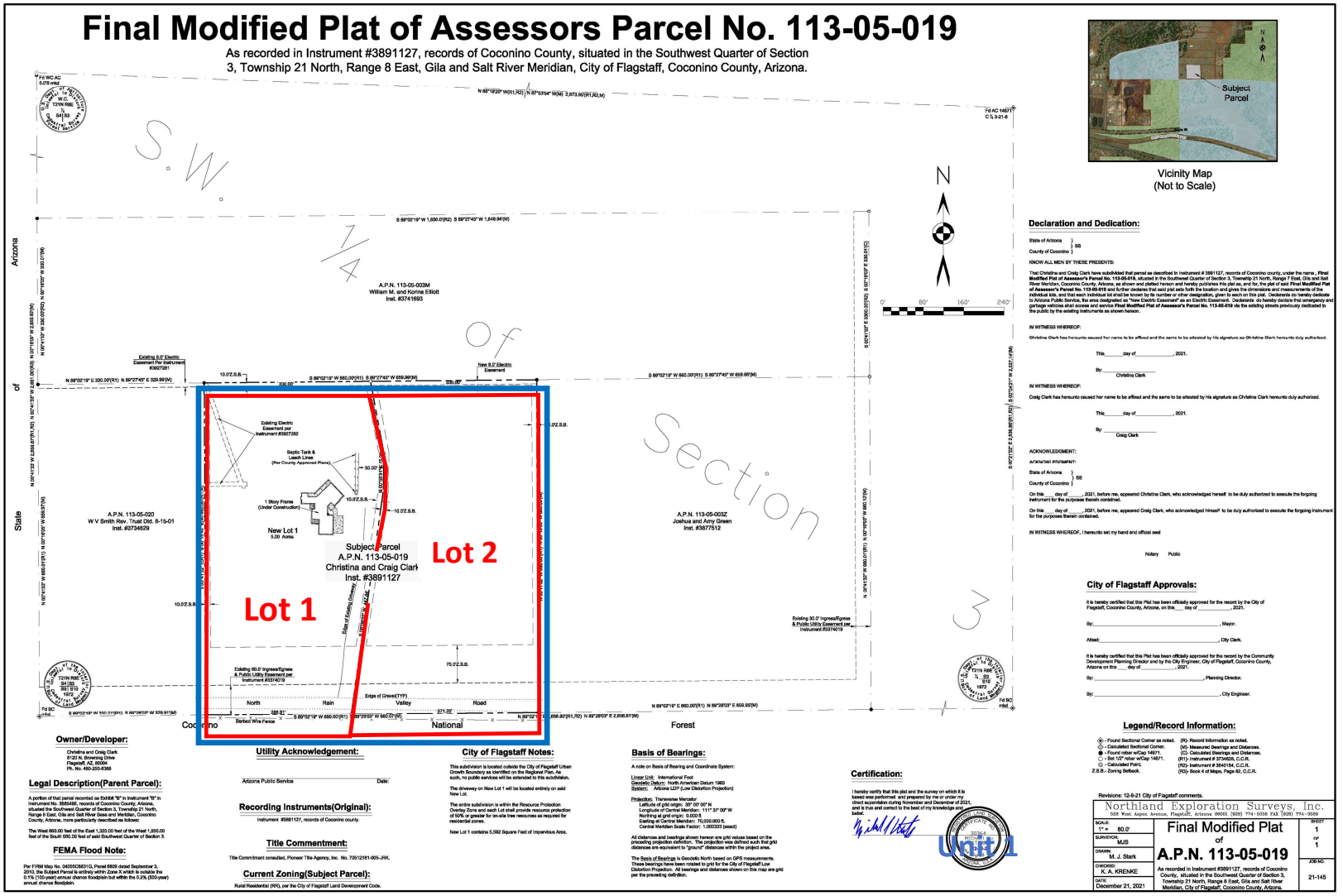
1625 N Rain Valley Rd

Original Parcel:

10 acres

Subdivision Lots:

5 acres each



Findings and Recommendation

Required Findings

- Staff has found **the Final Plat meets the requirements** of:
  - City Code Title 10, Flagstaff Zoning Code
  - City Code Title 11, General Plans and Subdivisions
  - City Code Title 13, Engineering Design Standards & Specifications

Staff Recommendation

- Staff recommends **the City Council approve the Final Plat and authorize the Mayor to sign the plat** when notified by Staff that the documents are ready for recording

11. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Sam Beckett, Public Works Streets Section Director

Co-Submitter: Scott Overton

Date: 03/30/2022

Meeting Date: 04/05/2022

TITLE:

Consideration and Approval of Contract: Approve the Cooperative Purchase Contract with Empire Southwest, LLC, for the purchase of one (1) 2022 CAT 950GC Wheel Loader in the amount of $289,719.74 to be reimbursed 100% by the Arizona Department of Forestry and Fire Management.

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract with Empire Southwest, LLC for the purchase of one (1) 2022 CAT 950GC Wheel Loader in the amount of $289,719.74 to be reimbursed 100% by the Arizona Department of Forestry and Fire Management; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

At the direction of House Bill 2001, Arizona Governor Ducey has allocated $25 million to Arizona for post wildfire mitigation support. The City has successfully requested funding and reimbursement utilizing Governor Ducey's funding directive for several items related to the Museum Fire post wildfire flooding response. One of the strategic requests was for a front-end loader for use by Public Works and Water Services for debris removal and sediment basin maintenance in the Museum Flood Hazard Area.

This front-end loader will also be able to add 72” forks for lift and moving concrete barriers and sandbag pallets as needed. In March, the City provided Director David Tenney of the Arizona Department of Forestry and Fire Management on a field tour of the damage caused by the Museum Fire post wildfire flooding. Director Tenney approved the funding request for a front-end loader to be used exclusively for flooding response and detention basin maintenance. This front-end loader will be a critical asset in the response effort related to the Museum Fire for years to come and the City is grateful for the partnership and support from the Arizona Department of Forestry and Fire Management, Governor's office, and the State Legislature.

Financial Impact:

The purchase of the front-end loader will come from account 040-06-161-0614-6-4401 but has been approved for 100% reimbursement by the Arizona Department of Fire and Forestry Management’s post wildfire mitigation funds.

Policy Impact:

The purchase of the front-end loader supports protection from the post wildfire debris flows from the Museum Fire burn scar. The City has committed to the long-term flood related maintenance of the Park Way & Killip Basins. The use of the front-end loader on such maintenance will be critical the sediment management in the City's storm water system. The purchase was procured through a cooperative purchase contract using the City of Tucson Cooperative Contract #161534.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High Performing Governance

- Enhance the organization's fiscal stability & increase efficiency & effectiveness

Safe & Healthy Community

- Provide public safety services with resources, staff & training responsive to the community's needs

Has There Been Previous Council Decision on This:

The City Council approved the Intergovernmental Agreement with the Flagstaff Unified School District in December 2021 for the construction of the Killip detention basins. These basins are designed to help reduce sediment entering the City's underground storm water system. In doing so, the City also agreed to the critical maintenance of post wildfire flooding sediment removal. Staff also presents monthly updates to the City Council on the mitigation projects in the Museum Flood hazard areas to describe the plans and strategies being utilized.

Options and Alternatives:

1. Approve the Cooperative Purchase Contract for one (1) 2022 CAT 950GC Wheel Loader from Empire Southwest, LLC in the amount of $289,719.74 to be reimbursed 100% by the Arizona Department of Forestry and Fire Management; or
2. Do not approve the use of the Cooperative Purchase Contract and direct Streets to separately procure the equipment directly utilizing HURF; or
3. Do not approve the purchase of the front-end loader.

Background/History:

The July 2019 Museum Fire burned just under 2,000 acres, most of which was in the Spruce Wash. Since then, the Flagstaff region experienced two very dry monsoon seasons drastically slowing the recovery of this water shed. The 2021 Monsoon season proved to be and above average monsoon season where multiple 2" rain events impacted the Museum Fire burn scar. City Streets crews were completely inundated for several weeks with post wildfire debris flows. Since then, several major flood mitigation projects were approved and are in progress to help reduce impacts the residents of Flagstaff. The City has also agreed to the long-term flooding related maintenance of the Park Way sediment basins and the Killip detention basins moving forwards. To ensure Streets and Storm Water can meet the commitment of maintenance it was clear that the City would need to add additional resources. The purchase of this front-end loader would greatly support and enhance the Museum Fire post wildfire debris and sediment clean-up operations.

Public Works worked with Procurement to find the best value for this piece of equipment needed for the Streets section. By utilizing a contract formally procured by the City of Tucson with Empire Southwest, LLC, the City is able to get a competitive price for the front-end loader. The local Empire dealer will be honoring the cooperative pricing from Contract #161534-01 with the City of Tucson Procurement Department.

Key Considerations:

The purchase of one (1) 2022 CAT 950GC Wheel Front-end Loader (funded by House Bill 2001, AKA Arizona Department of Forestry and Fire Management Post Wildfire Mitigation Funding) to support the Museum Fire post wildfire debris clean-up and the long-term maintenance of the Park Way sediment basins and Killip detention basin.

Expanded Financial Considerations:

The purchase of the front-end loader has been preapproved by the Arizona Department of Forestry and Fire Management. The purchase price of $289,719.74 will be fully reimbursed to the City utilizing State of Arizona funding identified in House Bill 2001 to support post wildfire mitigation operations.

Attachments:

Cooperative Purchase Contract
Exhibit A - Empire Quote for 950GC Wheel Loader Tucson Contract
Picture of CAT 950 GC Wheel Loader
Picture of CAT 950GC loader w/forks
Exhibit B - Agency Contract
Exhibit B - Agency Contract Extension

COOPERATIVE PURCHASE CONTRACT
Contract No. 2022-117

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 Empire Southwest, LLC, a California Limited Liability Company ("Contractor").

RECITALS:

A. The Contractor is a fully authorized dealer of Caterpillar, Inc. products;

B. Caterpillar Inc. holds a Local Government Purchasing Cooperative Contract #161534-01 with the City of Tucson Procurement Department, Public Sector to supply materials and/or services ("Agency Contract"), which was awarded through a competitive and open procurement process; and

C. Contractor is a dealer as described in the Agency Contract; and

D. 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:

2022 New Caterpillar 950GC Wheel Loader

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 for **Two hundred eighty-nine thousand, nine hundred dollars and eighty-seven cents ($289,900.87) in addition to 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, including, specifically changes in price for the materials.

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.

Empire Southwest, LLC.:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

EXHIBIT A

Quote from Empire CAT (attached)

EXHIBIT B
AGENCY CONTRACT

Contract #161524-01 City of Tucson Department of Procurement (attached)

CITY OF FLAGSTAFF
211 W ASPEN AVE
FLAGSTAFF, AZ 86001-5399
ATTN: SAM BECKETT

3/10/2022

Dear SAM, On behalf of Empire Machinery and Caterpillar Inc., we are pleased to quote the following.
City of Tucson Cooperative Contract #161534
Reference – State Order Desk R-3631354

2022 New Caterpillar 950GC Wheel Loader
Standard Equipment

POWERTRAIN

Engine Cat C7.1 and ATAAC
Torque converter
Transmission, automatic, power shift (4F/3R), kick-down function, overspeed protection
Brakes, full hydraulic enclosed wet-disc
EIMS (Engine Idle Management System)
Fan, radiator, electronically controlled, hydraulically driven, temperature sensing, on demand
Filter, fuel primary-water separator/ secondary
Radiator, unit core (9.5 fpi) with ATAAC
Starting aid, glow plugs
Switch, transmission neutralizer lockout

HYDRAULICS

Load sensing implement system pilot operated
Dedicated load sensing steering pump
Dedicated brake and fan gear pump

ELECTRICAL

Alarm, back-up/main disconnect switch
Alternator (145-amp, brush type)
Batteries (2), maintenance free
Ignition key; start/stop switch
Lighting system, halogen (6 total)
-Four (4) halogen work lights

OPERATOR ENVIRONMENT (Continued)

-Fuel pressure high/low
-Hydraulic oil level, parking brake
-Primary steering oil pressure
-Service brake oil pressure
-Action light, engine malfunction
-Transmission filter bypass
Heater and defroster
Horn
Cup holders and personal tray on right console
Storage tray behind seat
Mirrors, rearview external
Seat, Cat Comfort (cloth) suspension
Seat belt
Steering column, adjustable angle
Wipers/washers (front and rear)
Window, sliding (left and right side)

TIRES, RIMS, AND WHEELS

A tire must be selected from the mandatory attachments section
Tire availability might vary by region
Base machine price includes an allowance for base radial tires.

FLUIDS

Premixed 50% concentration of extended life coolant with freeze protection to -34C (-29F)

ELECTRICAL (Continued)

-Two (2) halogen road lights
Starting and charging system (24-volt)
Starter, electric (heavy duty)
Rear view camera

OPERATOR ENVIRONMENT

Computerized monitoring system
Air conditioning (HVAC) with 10 vents and filter unit located outside of cab
Bucket/work tool function lockout
Cab, pressurized and sound suppressed
Hydroformed (ROPS/FOPS) structure
12V power port (10A)
Coat hook
Pilot hydraulic controls, lift and tilt function
Gauges:
-Engine oil pressure, fuel level
-Engine coolant temperatures/fluid level
-Hydraulic/transmission oil temperature
-Tachometer
Digital indicators
-Gear indicator
-Speedometer
-Service meter units
-Fault codes
Warning indicators:
-Air inlet heater
-Electrical malfunction
-Engine inlet manifold temperature

OTHER STANDARD EQUIPMENT

Linkage, Z-Bar, fabricated crosstube/ tilt lever
Product Link Ready
Lift and bucket return-to-dig kick outs (Electro-Magnetic), mechanical adjustment
Couplings, Caterpillar O-ring face seal
Doors, service access (locking)
Front fender, steel
Grill, airborne debris
Hitch, drawbar with pin
Hood, non-metallic on steel structure, wing doors
Hoses, Caterpillar XT
Counterweight
SOS oil sampling valves
Sight gages :
-Engine coolant, hydraulic oil
-Transmission oil level
Diagnostic pressure taps
-Transmission speed clutches
-Transmission forward and reverse clutches
-Steering pump load and discharge pressure
-Brake system accumulator pressure
-Front and rear brake pressure

Additional Configuration Included in the Sales Price:

Ref #	Description	Price
5540849	950GC	$272,140
0P9002	LANE 2 ORDER	$0
5573555	REGIONAL PKG, AM-N	$0
5581785	STANDARD PACKAGE	$0
3875780	LINKAGE, STANDARD	$0
5528943	FRAME, MANUAL LUBE, STD OSC	$0
4693139	COUNTERWEIGHT, 3016LBS	$0
5735681	AXLE ARR, (OPEN, OPEN)	$0

Additional Configuration Included in the Sales Price (Continued):

	-OPEN FRONT DIFFERENTIAL	$0
	-OPEN REAR DIFFERENTIAL	$0
1303280	PRECLEANER	$760
5217456	HYDRAULICS,2V,W/RIDE CTRL ANSI	$3,575
	INCLUDES:	$0
	2 VALVE HYD SYST 4 LIFT/TILT	$0
	RIDE CONTROL	$0
	END OF INCLUDES	$0
5540884	LIGHTING, STANDARD	$0
	INCLUDES:	$0
	-HIGH/LOW BEAM LAMPS	$0
	-FRONT/REAR TURN SIGNALS	$0
	END OF INCLUDES	$0
5624197	LIGHTS, WORKING, 4 HALOGEN	$0
5541499	LIGHTS, 5 CONNECTORS	$0
5531403	SINGLE AXIS LEVERS W/FNR	$0
4890437	SUSPENSION SEAT, MECHANICAL	$0
3915315	SEAT BELT, 3", AUTO-ANTI-CINCH	$0
5799102	PRODUCT LINK, CELLULAR PL641	$0
3906000	STEERING SYST, STANDARD	$0
5247645	FAN, STANDARD	$0
5623218	ANTIFREEZE, -34C (-29F)	$0
5932886	TIRES, 23.5R25 MA MS302 ** L3	$425
4710569	NO QUICK COUPLER READY	$0
5599424	BKTA GP GC 115" 4.25YD3 PO	$13,403
4218926	SERIALIZED TECHNICAL MEDIA KIT	$0
0P4834	ROLL ON-ROLL OFF	$0
3915330	SUN VISOR, REAR	$110
4157735	FENDER, EXTENSIONS, STEEL	$312
6030648	RADIO, AM/FM/BLUETOOTH READY	$0

Pricing Summary

List Price:	$290,725.00
City of Tucson Cooperative Contract #161534 - Category 3: Loaders Discount (20%):	($58,145.00)
Sub Total:	$232,580.00
Dealer Prep:	$2,542.00
Delivery Freight:	$2,000.00
City of Flagstaff Additional Configuration:	$22,000.00
Sub Total:	$259,122.00
Extended Warranty:	$6,920.00
Sale Price:	$266,042.00
Sales Tax (8.9%):	$23,677.74
Total Sales Price Including Tax:	**$289,719.74**

City of Flagstaff Additional Configuration Detail: The City of Flagstaff has requested to configure this 950GC Wheel Loader with a Fusion Coupler, and Fork Carriage. This charge is for the parts and labor for to add these items.

City of Flagstaff Additional Configuration Details:

Description	List Price	Discount	Sales Price	Freight	Installation	Total Sales Price
Fork Carriage	$8,569.00	15%	$7,283.65	$ 500.00	$ -	$ 7,783.65
Fusion Coupler	$7,264.00	15%	$6,174.40	$ 450.00	$3,531.85	$ 10,156.25
Hydraulic Kit	$2,118.00	15%	$1,800.30	$ 200.00	$ -	$ 2,000.30
Hook Blank	$2,188.00	15%	$1,859.80	$ 200.00	$ -	$ 2,059.80

Total Price $ 22,000.00
Sales Tax added above

Warranty: Extended Premier Warranty for seven (7) years or 4,000 Hours (whichever occurs first). Travel time and mileage cost for warrantable repairs covered for first 12 months.

Training: On-site operating and safety training provided by CAT certified product specialist to ensure machine is run properly to reduce operating costs, reduce unnecessary machine wear and tear, maximize productivity, and increase safety awareness.

If you have any questions regarding this information please let me know. Thank you for allowing Empire Machinery to assist with your Caterpillar equipment needs.

Sincerely,

Todd Owen
Empire Southwest
Account Manager
Todd.Owen@empire-cat.com
(928)606-1335 (cell)

This quote is good for thirty days and prices are subject to change. All finance options are subject to credit approval. By purchasing goods or services from Empire, you agree to Empire's Terms (www.empire-cat.com/salesserviceterms), which are incorporated into this quote. Due to market issues outside of Empire's control, any tires listed on this quote may not be available at time of shipment. All tire makes, models and costs are subject to change.

CAT 950
GC

www.bmcdowell.com

CONTRACT AMENDMENT

CITY OF TUCSON DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726
PHONE: (520) 837-4123 / FAX: (520) 791-4735
Jeffrey.Whiting@tucsonaz.gov
ISSUE DATE: DECEMBER 5, 2017

CONTRACT #161534-01
CONTRACT AMENDMENT NUMBER: ONE (1)

JW/lr
CONTRACT OFFICER: JEFFREY WHITING

HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES

THIS CONTRACT IS AMENDED AS FOLLOWS:

ITEM NO. ONE (1): CONTRACT RENEWAL
Pursuant to Contract No. 161534, Special Terms and Conditions, Term and Renewal, the City is hereby exercising its option to renew the contract for the period of May 01, 2018 through April 30, 2019.

ITEM NO. TWO (2): PRICING
Pursuant to Contract No. 161534, Scope of Work, Pricing, shall be **replaced** in its entirety with the Attached Price Page dated January 01, 2018 and shall become effective January 01, 2018.

ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN IN THEIR ENTIRETY.

CONTRACTOR: Caterpillar Inc.

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT OF AND UNDERSTANDING OF THE ABOVE AMENDMENT.

Patty A Redfath 12/11/17
Signature of person authorized to sign Date

PATTY REDFATH, GOVERNMENT ACCOUNT MANAGER
Name and Title (typed or printed legibly)

CATERPILLAR INC.
Company Name

100 NE ADAMS ST. PEORIA, IL 61629
Address

REDFATH_PATTY@CAT.COM
Email Address

PEORIA IL 61629
City State Zip

Contact information for Sales/Account Representative for daily business operations:

PATTY REDFATH, GOVT ACCOUNT MANAGER
Name and Title (typed or printed legibly)

309-494-4578
Phone Number

REDFATH_PATTY@CAT.COM
Email Address

CITY OF TUCSON:

THE ABOVE REFERENCED CONTRACT AMENDMENT IS HEREBY EXECUTED THIS 14 DAY OF Dec, 2017, AT TUCSON, ARIZONA.

Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM
as Director of Procurement and not personally

2018 Caterpillar Coop Contract Discounts v1

Cooperative Contracts -- Effective January 1, 2018

Machine Model*	New Equipment
2018	Discount to Customer (Off List Price)
Pavers	
AP255	18.00%
AP300	18.00%
AP355	18.00%
AP500	18.00%
AP555	18.00%
AP600	18.00%
AP655	18.00%
AP1000	18.00%
AP1055	18.00%
Rollers	
CB1.7	19.00%
CB1.8	19.00%
CB7	19.00%
CB8	19.00%
CB10	19.00%
CB13	19.00%
CB14	19.00%
CB15	19.00%
CB16	19.00%
CB22	19.00%
CB24	19.00%
CB32	19.00%
CB34	19.00%
CB36	19.00%
CB44	19.00%
CB46	19.00%
CB54	19.00%
CB64	19.00%
CB66	19.00%
CB68	19.00%
CC24	19.00%
CC34	19.00%
CCS7	19.00%
CCS9	19.00%
CD8	19.00%
CD10	19.00%
CD44	19.00%
CD54	19.00%
CP34	19.00%
CP44	19.00%
CP54	19.00%
CP56	19.00%
CP68	19.00%
CP74	19.00%
CS34	19.00%
CS44	19.00%
CS54	19.00%
CS56	19.00%
CS64	19.00%
CS68	19.00%
CS78	19.00%
CW16	19.00%
CW34	19.00%

***Note: Base machines are listed. There may be several different base machine configurations available. (For example, the D6 model track type tractor is available as a D6K, D6N and D6T). The base machine discount will be applied to any model configuration plus any and all options listed on the Caterpillar Machine price list.**

2018 Caterpillar Coop Contract Discounts v1

Track Type Tractors

D3	23.00%
D4	23.00%
D5	23.00%
D6	21.00%
D7	19.00%
D8	19.00%
D9	10.00%

Wheeled Excavators

M314F	26.00%
M315F	26.00%
M316F	26.00%
M317F	26.00%
M318F	26.00%
M320F	26.00%
M322F	26.00%

Material Handlers

MH3022	26.00%
MH3024	26.00%
MH3026	26.00%

Cold Planers

PM310	20.00%
PM312	20.00%
PM313	20.00%
PM620	20.00%
PM622	20.00%
PM820	20.00%
PM822	20.00%
PM825	20.00%

Reclaimers

RM300	20.00%
RM500	20.00%

Telehandlers

TH255	23.00%
TH3510	24.00%
TH357	24.00%
TH408	24.00%
TH514	24.00%
TL642	24.00%
TL943	24.00%
TL1055	24.00%
TL1255	24.00%

Motor Graders

12	30.00%
120	34.00%
140	30.00%
160	30.00%
14	19.00%

Skid Steer Loaders

226	21.00%
232	21.00%
236	21.00%
242	21.00%
246	21.00%
262	21.00%
272	21.00%

Multi-Terrain Loaders

257	21.00%
277	21.00%
287	21.00%
297	21.00%

2018 Caterpillar Coop Contract Discounts v1

Compact Track Loaders

239	21.00%
249	21.00%
259	21.00%
279	21.00%
289	21.00%
299	21.00%

Excavators

300.9	20.00%
301.4	20.00%
301.7	20.00%
302.4	20.00%
302.7	20.00%
303	20.00%
303.5	20.00%
304	20.00%
304.5	20.00%
305	20.00%
305.5	20.00%
307	20.00%
308	20.00%
311	18.00%
313	15.00%
313GC	16.00%
315	19.00%
316	19.00%
318	16.00%
320	15.00%
320GC	16.00%
323	15.00%
325	15.00%
326	15.00%
330	15.00%
335	15.00%
336	15.00%
349	10.00%
352	10.00%
374	10.00%

Backhoe Loaders

415	22.00%
416	22.00%
420	22.00%
430	22.00%
450	22.00%

Site Prep Tractor

586C	20.00%

Wheel Tractor Scrapers

621	18.00%
623	18.00%
627	18.00%

Articulated Trucks

725	17.00%
730	17.00%
735	17.00%
745	17.00%

Rigid Frame Trucks

770	3.00%
773	3.00%

2018 Caterpillar Coop Contract Discounts v1

Landfill Compactors

816	12.00%
826	12.00%
836	12.00%

Wheel Dozers and Soil Compactors

814	15.00%
815	13.00%
824	15.00%
825	13.00%

Wheel Loaders

903	23.00%
906	23.00%
907	23.00%
908	23.00%
910	23.00%
914	23.00%
918	24.00%
924	24.00%
926	24.00%
930	24.00%
938	24.00%
950GC	20.00%
950M	18.00%
962	18.00%
966	15.00%
972	11.00%
980	11.00%
982	11.00%

Track Loaders

953	19.00%
963	22.00%
973	23.00%

Worktools	15.00%

Caterpillar Safety Services	15.00%

Used Equipment is discounted 20% from Original Customer List

Rental Equipment is discounted 10% from dealership Rental Rates

Parts & Service is discounted by the servicing dealer according to work order volume

2018 Caterpillar Model List – Change Summary from 2017 - 2018

Add Models	Customer Discount
CB1.7	19
CB1.8	19
CB13	19
CB15	19
CB16	19
CCS7	19
CCS9	19
MH3022	26
MH3024	26
MH3026	26
PM310	20
PM312	20
PM313	20
PM820	20
PM822	20
PM825	20
TH357	24
TH408	24
320GC	16

Delete Discontinued Models

CW14
CT660, CT680, CT681 (Caterpillar exited Vocational Truck business)
PM102
TH306
TH406
TH407
312
321
329
740

City of Tucson, AZ

Contract 161534

for

Heavy Equipment, Parts, Accessories, Supplies and Related Services

with

Caterpillar, Inc

Effective: May 1, 2017

The following documents comprise the executed contract between the City of Tucson, AZ and Caterpillar Inc., effective May 1, 2017

I. Signed Contract
II. Summary of Negotiated Items
III. Caterpillar, Inc Original Response
IV. Original Request for Proposal

CITY OF TUCSON

DEPARTMENT OF PROCUREMENT

April 26, 2017

Sent via electronic mail, this day

Patty Redpath, Governmental Account Manager
Caterpillar Inc.
100 NE Adams St.
Peoria, IL 61629
redpath_patty@cat.com

Re: Contract No.: **161534-01**
Contract Title: **Heavy Equipment, Parts, Accessories, Supplies and Related Services**

Dear Ms. Redpath:

The City of Tucson has awarded your firm the contract for furnishing the City's requirements for **Heavy Equipment, Parts, Accessories, Supplies and Related Services** during the time period of May 1, 2017 through April 30, 2018.

Please find attached your pdf copy of the contract, purchase order and the Designation of Contract Representative Memorandum outlining the duties and responsibilities of the representative as they relate to this contract. If you have any questions concerning this award, please contact me at (520) 837-4123.

The City wishes to thank you for your interest and proposal.

Sincerely,

Jeffrey Whiting
Senior Contract Officer

JW/lr

Attachments

Cc: File 161534

CITY OF
TUCSON
DEPARTMENT OF
PROCUREMENT

April 04, 2017

Patty Redpath
Governmental Account Manager
Caterpillar Inc.
100 NE Adams St.
Peoria, IL, 61629
Email: redpath_patty@ cat.com

Sent this day via electronic mail

RE: City of Tucson Request for Proposal # 161534 – Heavy Equipment, Parts, Accessories, Supplies and Related Services -Summary of Negotiated Items

Dear Mrs. Redpath,

Based on our written and verbal negotiations, conducted over the past few months, this letter serves to summarize the items we have agreed on in regards to the City's Request for Proposal for Heavy Equipment, Parts, Accessories, Supplies and Related Services. Please provide written confirmation that the items contained in this letter represent the agreed upon items by signing the concurrence line below. In the event there is any disagreement with this document or if there is other information that must be included in this document, Caterpillar Inc., must specify those differences in a written response to this request.

The following agreements have been made between the City of Tucson and Caterpillar Inc. with regard to Request Proposal# 161534:

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> **8. Price Adjustment:** The Contractor may implement new published manufacturer price lists quarterly, throughout the calendar year. The Contractor will provide the City with any updated published price lists with a minimum of 30 days advance notification from the intended effective date. Any price adjustments may be considered as a factor in the contract renewal/ extension process.
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The City and the Contractor acknowledge that the Contractor authorized dealers are independent businesses and as such, have the right to choose whether or not to accept the terms and conditions contained herein.

All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the

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20.Indemnification: To the fullest extent permitted by law, Participating Dealer, shall pay, defend, indemnify and hold harmless the City of Tucson, its agents, representatives, officers, directors, officials and employees ("Indemnitees") from and against all allegations, demands, proceedings, suits, actions, claims, damages, reasonable losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, incurred or sustained by an Indemnitee and related to (i) injury to or death of, or property damage sustained by, any natural person who is an Indemnitee, or (ii) claims of patent or copyright infringement, to the extent caused by, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions of Participating Dealers relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor retained by Participating Dealers or anyone directly or indirectly employed by Participating Dealers or such Subcontractor, and except to the extent that the injury to, death of, or property damage sustained by such person is attributable to the negligent acts or omissions or willful misconduct of the City or any of its affiliates or their respective employees, agents or subcontractors, anyone for whose acts any of them may be liable and any injury or damages claimed by any of the Participating Dealer's and Subcontractor's employees. It is agreed that the Participating Dealer will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Participating Dealers agree to waive all rights of subrogation against the City of Tucson, it's agents, representatives, officers, directors, officials, employees and volunteers for losses arising from the work performed by the Participating Dealer for the City of Tucson.

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28. Payment: The City's preferred method of payment is via credit card. However, certain Dealers do not accept credit cards. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card or other means upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

10. Pursuant to RFP 161534, Standard Terms and Conditions, Paragraph 39. Termination of Contract is hereby replaced with the following:

39. Termination of Contract: This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, which failure the contractor has not commenced to remedy within thirty days of receipt of notice of such failure. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

11. Pursuant to RFP 161534, Attachment A, Exhibit A, Paragraph 1.4 Award Basis is hereby replaced with the following:

1.4 Award Basis

The basis of any contract award resulting from this RFP made by Principal Procurement Agency will be the basis of award on a national level through National IPA. If multiple suppliers are awarded by Principal Procurement Agency under the Master Agreement, those same suppliers will be required to extend the Master Agreement to Participating Public Agencies through National IPA. Utilization of the Master Agreement by Participating Public Agencies will be at the discretion of the individual Participating Public Agency. Certain terms of the Master Agreement specifically applicable to the Principal Procurement Agency are subject to modification for each Participating Public Agency as Supplier, such Participating Public Agency and National IPA shall agree. Participating Agencies may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (i.e. invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and

woman owned businesses, historically underutilized business, governing law, etc.). Any supplemental agreement developed as a result of the Master Agreement is exclusively between the Participating Agency and the local authorized Dealer (Contract Sales are reported to National IPA).

12. Pursuant to RFP 161534, Attachment A, Exhibit B, Paragraph 6 Term of Agreement is hereby replaced with the following:

6. Term of Agreement

This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the provisions of paragraphs 3, 4 and 5 hereof and the indemnifications afforded by the Dealer to National IPA herein and in the Master Agreement, to the extent such provision survive the term of the Master Agreement, shall survive the term of this Agreement.

13. Pursuant to RFP 161534, Instructions to Offerors, Paragraph 10 Exceptions to Contract Provisions is hereby replaced with the following:

10. Exceptions to Contract Provisions

A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or an appointed designee. If a proposal or offer is returned with modification to the contract provisions that are not expressly approved in writing by the Director or the appointed designee, the City shall be deemed to have rejected the proposal or offer in part and the parties may negotiate the provision(s) at issue.

14. Pursuant to RFP 161534, Instructions to Offerors, Paragraph 11 Public Record is hereby replaced with the following:

11. Public Record

All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification to the extent required by law.

15. Pursuant to RFP 161534, Instructions to Offerors, Paragraph 12 Confidential Information is hereby replaced with the following:

12. Confidential Information

The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is

not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.

For the avoidance of doubt, a purchaser may request a product price page from a Participating Dealer. The purchaser may verify the accuracy of that price page, to the extent it deems necessary, by
(a) contacting Caterpillar's GCI Government Contracts group or
(b) contacting the appropriate contract manager with the City or National IPA, who shall be granted non-transferable, password protected access to Caterpillar's price pages.
The City and the appropriate contract manager agrees that it shall not publish such price pages , for example, to a public website but shall have access thereto for confirmation of Participating Dealer price page accuracy.

16. Pursuant to RFP 161534, Instructions to Offerors, Paragraph 21 City of Tucson Business License is hereby replaced with the following:

21. City of Tucson Business License

It is the responsibility of the applicable Dealer to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at http://www.tucsonaz.gov/etax. For questions contact the City's Business License Section at (520) 791-4566 or email at tax-license@tucsonaz.gov.

17. Pursuant to RFP 161534, Special Terms and Conditions, Paragraph 4 Insurance is hereby replaced with the following:

4. Insurance:

The Applicable Dealer agrees to:

A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least 30 days prior to termination or cancellation in coverage in any policy, and 10 days notice for cancellation due to non-payment in premium.

B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. Such additional insured shall be covered to the full limits of liability purchased by the Applicable Dealer, even if those limits of liability are in excess of those required by this Contract. The insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.

C. Provide and maintain minimum insurance limits as applicable.

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	$1,000,000
General Aggregate (including Per Project)	$2,000,000
Products & Completed Operations Aggregate	$2,000,000
Personal and Advertising Injury	$1,000,000
Blanket Contractual Liability	$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	$1,000,000
III. Workers' Compensation (applicable to the State of Arizona)*[1]	
Per Occurrence	Statutory
Employer's Liability	$1,000,000
Disease Each Employee	$1,000,000
Disease Policy Limit	$1,000,000
IV. Garage Liability & Garage Keepers Liability - In addition to I, II, III	
Garage Liability	$1,000,000
Garage Keeper's Liability – Direct Primary Coverage	
Each Auto	$ 500,000
Each Occurrence	$1,000,000

D. **ADDITIONAL INSURANCE REQUIREMENTS:** Policies shall be endorsed to include the following provisions:

1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Applicable Dealer (including Worker's Compensation).
2. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
3. Coverage provided by the Applicable Dealer shall not be limited to the liability assumed under the indemnification provisions of this Contract.

E. **NOTICE OF COVERAGE MODIFICATIONS:** Any changes material to compliance with this contract in the insurance policies above shall require 10 days written notice from the Applicable Dealer to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.

F. **ACCEPTABILITY OF INSURERS:** The Applicable Dealer's insurance shall have an "A.M. Best" rating of not less than A:VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Applicable Dealer from potential insurer insolvency.

G. **VERIFICATION OF COVERAGE:** The Applicable Dealer shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

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

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

H. **SUBCONTRACTORS:** The Applicable Dealers' certificate(s) shall include all subcontractors as insureds under its policies **or** Dealer shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

I. **EXCEPTIONS:** In the event the Dealer or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self- Insurance.

18. Pursuant to RFP 161534, Standard Terms and Conditions, Paragraph 38 Subcontractors, is hereby replaced with the following:

38. Subcontracts: Subject to Special Terms and Conditions, Paragraph 2. Subcontractors, no subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein

without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

19. It is mutually agreed that not all items are available through this contract at all Dealer locations. Participating agencies will need to check with their local dealer to see which items from this contract are available.

Please provide written concurrence to me no later than **Thursday, April 06, 2017 at 4 PM**. You may email your response to Jeffrey.Whiting@tucsonaz.gov. If you should have any questions, please call me at (520) 837-4123.

Sincerely,

Jeffrey Whiting
Contract Officer

Concurrence: Patty A Redsath Date: April 6, 2017

Name: PATTY KESMATH Title: GOVERNMENT ACCOUNT MANAGER

Contract #161534

Heavy Equipment, Parts, Accessories, Supplies, and Related Services

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1. Caterpillar's Response to Summary of Negotiated Items

CITY OF
TUCSON
DEPARTMENT OF
PROCUREMENT

April 04, 2017

Patty Redpath
Governmental Account Manager
Caterpillar Inc.
100 NE Adams St.
Peoria, IL, 61629
Email: redpath_patty@ cat.com

Sent this day via electronic mail

RE: City of Tucson Request for Proposal # 161534 – Heavy Equipment, Parts, Accessories, Supplies and Related Services -Summary of Negotiated Items

Dear Mrs. Redpath,

Based on our written and verbal negotiations, conducted over the past few months, this letter serves to summarize the items we have agreed on in regards to the City's Request for Proposal for Heavy Equipment, Parts, Accessories, Supplies and Related Services. Please provide written confirmation that the items contained in this letter represent the agreed upon items by signing the concurrence line below. In the event there is any disagreement with this document or if there is other information that must be included in this document, Caterpillar Inc., must specify those differences in a written response to this request.

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9. Pursuant to RFP 161534, Standard Terms and Conditions, Paragraph 28. Payment is hereby replaced with the following:

28. Payment: The City's preferred method of payment is via credit card. However, certain Dealers do not accept credit cards. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card or other means upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

10. Pursuant to RFP 161534, Standard Terms and Conditions, Paragraph 39. Termination of Contract is hereby replaced with the following:

39. Termination of Contract: This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, which failure the contractor has not commenced to remedy within thirty days of receipt of notice of such failure. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

11. Pursuant to RFP 161534, Attachment A, Exhibit A, Paragraph 1.4 Award Basis is hereby replaced with the following:

1.4 Award Basis

The basis of any contract award resulting from this RFP made by Principal Procurement Agency will be the basis of award on a national level through National IPA. If multiple suppliers are awarded by Principal Procurement Agency under the Master Agreement, those same suppliers will be required to extend the Master Agreement to Participating Public Agencies through National IPA. Utilization of the Master Agreement by Participating Public Agencies will be at the discretion of the individual Participating Public Agency. Certain terms of the Master Agreement specifically applicable to the Principal Procurement Agency are subject to modification for each Participating Public Agency as Supplier, such Participating Public Agency and National IPA shall agree. Participating Agencies may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (i.e. invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and

woman owned businesses, historically underutilized business, governing law, etc.). Any supplemental agreement developed as a result of the Master Agreement is exclusively between the Participating Agency and the local authorized Dealer (Contract Sales are reported to National IPA).

12. Pursuant to RFP 161534, Attachment A, Exhibit B, Paragraph 6 Term of Agreement is hereby replaced with the following:

6. Term of Agreement

This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the provisions of paragraphs 3, 4 and 5 hereof and the indemnifications afforded by the Dealer to National IPA herein and in the Master Agreement, to the extent such provision survive the term of the Master Agreement, shall survive the term of this Agreement.

13. Pursuant to RFP 161534, Instructions to Offerors, Paragraph 10 Exceptions to Contract Provisions is hereby replaced with the following:

10. Exceptions to Contract Provisions

A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or an appointed designee. If a proposal or offer is returned with modification to the contract provisions that are not expressly approved in writing by the Director or the appointed designee, the City shall be deemed to have rejected the proposal or offer in part and the parties may negotiate the provision(s) at issue.

14. Pursuant to RFP 161534, Instructions to Offerors, Paragraph 11 Public Record is hereby replaced with the following:

11. Public Record

All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification to the extent required by law.

15. Pursuant to RFP 161534, Instructions to Offerors, Paragraph 12 Confidential Information is hereby replaced with the following:

12. Confidential Information

The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is

not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.

For the avoidance of doubt, a purchaser may request a product price page from a Participating Dealer. The purchaser may verify the accuracy of that price page, to the extent it deems necessary, by
(a) contacting Caterpillar's GCI Government Contracts group or
(b) contacting the appropriate contract manager with the City or National IPA, who shall be granted non-transferable, password protected access to Caterpillar's price pages.
The City and the appropriate contract manager agrees that it shall not publish such price pages , for example, to a public website but shall have access thereto for confirmation of Participating Dealer price page accuracy.

16. Pursuant to RFP 161534, Instructions to Offerors, Paragraph 21 City of Tucson Business License is hereby replaced with the following:

21. City of Tucson Business License

It is the responsibility of the applicable Dealer to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at http://www.tucsonaz.gov/etax. For questions contact the City's Business License Section at (520) 791-4566 or email at tax-license@tucsonaz.gov.

17. Pursuant to RFP 161534, Special Terms and Conditions, Paragraph 4 Insurance is hereby replaced with the following:

4. Insurance:

The Applicable Dealer agrees to:

A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least 30 days prior to termination or cancellation in coverage in any policy, and 10 days notice for cancellation due to non-payment in premium.

B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. Such additional insured shall be covered to the full limits of liability purchased by the Applicable Dealer, even if those limits of liability are in excess of those required by this Contract. The insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.

C. Provide and maintain minimum insurance limits as applicable.

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	$1,000,000
General Aggregate (including Per Project)	$2,000,000
Products & Completed Operations Aggregate	$2,000,000
Personal and Advertising Injury	$1,000,000
Blanket Contractual Liability	$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	$1,000,000
III. Workers' Compensation (applicable to the State of Arizona)*1	
Per Occurrence	Statutory
Employer's Liability	$1,000,000
Disease Each Employee	$1,000,000
Disease Policy Limit	$1,000,000
IV. Garage Liability & Garage Keepers Liability - In addition to I, II, III	
Garage Liability	$1,000,000
Garage Keeper's Liability – Direct Primary Coverage	
Each Auto	$ 500,000
Each Occurrence	$1,000,000

D. **ADDITIONAL INSURANCE REQUIREMENTS:** Policies shall be endorsed to include the following provisions:

1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Applicable Dealer (including Worker's Compensation).
2. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
3. Coverage provided by the Applicable Dealer shall not be limited to the liability assumed under the indemnification provisions of this Contract.

E. **NOTICE OF COVERAGE MODIFICATIONS:** Any changes material to compliance with this contract in the insurance policies above shall require 10 days written notice from the Applicable Dealer to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.

F. **ACCEPTABILITY OF INSURERS:** The Applicable Dealer's insurance shall have an "A.M. Best" rating of not less than A:VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Applicable Dealer from potential insurer insolvency.

G. **VERIFICATION OF COVERAGE:** The Applicable Dealer shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

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

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

H. **SUBCONTRACTORS:** The Applicable Dealers' certificate(s) shall include all subcontractors as insureds under its policies **or** Dealer shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

I. **EXCEPTIONS:** In the event the Dealer or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self- Insurance.

18. Pursuant to RFP 161534, Standard Terms and Conditions, Paragraph 38 Subcontractors, is hereby replaced with the following:

38. Subcontracts: Subject to Special Terms and Conditions, Paragraph 2. Subcontractors, no subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein

without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

19. It is mutually agreed that not all items are available through this contract at all Dealer locations. Participating agencies will need to check with their local dealer to see which items from this contract are available.

Please provide written concurrence to me no later than **Thursday, April 06, 2017 at 4 PM**. You may email your response to Jeffrey.Whiting@tucsonaz.gov. If you should have any questions, please call me at (520) 837-4123.

Sincerely,

Jeffrey Whiting
Contract Officer

Concurrence: Patty A Redsmith Date: April 6, 2017

Name: PATTY REDSMITH Title: GOVERNMENT ACCOUNT MANAGER

2. Caterpillar's Response to BAFO

From: Patty Redpath <Redpath_Patty@cat.com>
To: "Jeffrey Whiting" <Jeffrey.Whiting@tucsonaz.gov>
Date: 3/8/2017 1:40 PM
Subject: Re: RFP 161534 - Heavy Equipment
Attachments: 2017 Caterpillar Coop Contract Discounts - Best & Final Offer - March 2017.xls; Caterpillar National IPA 2017 Update Gen - Eff 1-9-2017.xlsx

Hello Jeff -

Thank you for the opportunity to respond. Attached is our Best and Final Offer, which is consistent with what we provided with our original RFP Response.

Thanks!

Patty Redpath
Government Account Manager
Caterpillar Inc.
Global Construction & Infrastructure ? Count on Us
100 NE Adams St. | Peoria, IL | USA | 61629
Tel: +1 (309) 494-4578 | C: (309) 370-0775

From: "Jeffrey Whiting" <Jeffrey.Whiting@tucsonaz.gov>
To: <Redpath_Patty@cat.com>
Date: 03/07/2017 02:14 PM
Subject: Re: RFP 161534 - Heavy Equipment

Hi Patty,
Please see the attached document, and let me know if you have any additional questions. Thanks

Jeffrey Whiting
Senior Contract Officer
Department of Procurement
255 W Alameda, 6th Floor
Tucson, AZ 85726
520-837-4123
520-791-4735 Fax

[attachment "BAFO-CAT.docx" deleted by Patty Redpath/0A/Caterpillar]

2017 Caterpillar Coop Contract Discounts - Best & Final Offer - March 2017

Cooperative Contracts -- March 8, 2017

Machine Model*	New Equipment
2017	Discount to Customer (Off List Price)
Pavers	
AP255	16.00%
AP300	16.00%
AP355	16.00%
AP500	16.00%
AP555	16.00%
AP600	16.00%
AP655	16.00%
AP1000	16.00%
AP1055	16.00%
Rollers	
CB7	16.00%
CB8	16.00%
CB10	16.00%
CB14	16.00%
CB22	16.00%
CB24	16.00%
CB32	16.00%
CB34	16.00%
CB36	16.00%
CB44	16.00%
CB46	16.00%
CB54	16.00%
CB64	16.00%
CB66	16.00%
CB68	16.00%
CC24	16.00%
CC34	16.00%
CD8	16.00%
CD10	16.00%
CD44	16.00%
CD54	16.00%
CP34	14.00%
CP44	14.00%
CP54	14.00%
CP56	14.00%
CP68	14.00%
CP74	14.00%
CS34	14.00%
CS44	14.00%
CS54	14.00%
CS56	14.00%
CS64	14.00%
CS68	14.00%
CS78	14.00%
CW14	16.00%
CW16	16.00%
CW34	16.00%

*Note: Base machines are listed. There may be several different base machine configurations available. (For example, the D6 model track type tractor is available as a D6K, D6N and D6T). The base machine discount will be applied to any model configuration plus any and all options listed on the Caterpillar Machine price list.

2017 Caterpillar Coop Contract Discounts - Best & Final Offer - March 2017

Vocational Trucks

CT660	23.00%
CT680	23.00%
CT681	23.00%

Track Type Tractors

D3	25.00%
D4	25.00%
D5	25.00%
D6	24.00%
D7	22.00%
D8	22.00%
D9	10.00%

Wheeled Excavators

M314F	30.00%
M315F	30.00%
M316F	30.00%
M317F	30.00%
M318F	30.00%
M320F	30.00%
M322F	30.00%

Cold Planers

PM102	14.00%
PM620	14.00%
PM622	14.00%

Reclaimers

RM300	14.00%
RM500	14.00%

Telehandlers

TH255	26.00%
TH306	26.00%
TH3510	26.00%
TH406	26.00%
TH407	26.00%
TH514	26.00%
TL642	26.00%
TL943	26.00%
TL1055	26.00%
TL1255	26.00%

Motor Graders

12	33.00%
120	37.00%
140	33.00%
160	33.00%
14	23.00%

Skid Steer Loaders

226	25.00%
232	25.00%
236	25.00%
242	25.00%
246	25.00%
262	25.00%
272	25.00%

Multi-Terrain Loaders

257	25.00%
277	25.00%
287	25.00%
297	25.00%

2017 Caterpillar Coop Contract Discounts - Best & Final Offer - March 2017

Compact Track Loaders

239	25.00%
249	25.00%
259	25.00%
279	25.00%
289	25.00%
299	25.00%

Excavators

300.9	24.00%
301.4	24.00%
301.7	24.00%
302.4	24.00%
302.7	24.00%
303	24.00%
303.5	24.00%
304	24.00%
304.5	24.00%
305	24.00%
305.5	24.00%
307	24.00%
308	24.00%
311	24.00%
312	21.00%
313	21.00%
313GC	21.00%
315	25.00%
316	25.00%
318	22.00%
320	18.00%
321	18.00%
323	18.00%
325	18.00%
326	18.00%
329	18.00%
330	18.00%
335	18.00%
336	18.00%
349	12.00%
352	12.00%
374	12.00%

Backhoe Loaders

415	24.00%
416	24.00%
420	24.00%
430	24.00%
450	24.00%

Site Prep Tractor

586C	20.00%

Wheel Tractor Scrapers

621	16.00%
623	17.00%
627	16.00%

2017 Caterpillar Coop Contract Discounts - Best & Final Offer - March 2017

Articulated Trucks

725	14.00%
730	14.00%
735	14.00%
740	14.00%
745	14.00%

Rigid Frame Trucks

770	10.00%
773	10.00%

Landfill Compactors

816	14.00%
826	14.00%
836	14.00%

Wheel Dozers and Soil Compactors

814	15.00%
815	15.00%
824	15.00%
825	15.00%

Wheel Loaders

903	25.00%
906	25.00%
907	25.00%
908	25.00%
910	25.00%
914	25.00%
918	26.00%
924	26.00%
926	26.00%
930	26.00%
938	26.00%
950GC	26.00%
950M	24.00%
962	24.00%
966	21.00%
972	16.00%
980	12.00%
982	12.00%

Track Loaders

953	20.00%
963	23.00%
973	23.00%

Worktools	15.00%

Caterpillar Safety Services	15.00%

Used Equipment is discounted 20% from Original Customer List

Rental Equipment is discounted 10% from dealership Rental Rates

Parts & Service is discounted by the servicing dealer according to work order volume

Caterpillar January 9th, 2017 National IPA Participant Discounts

All Discounts listed are for "Standby Ratings Only unless otherwise stated".

	NIPA Participant Discount
60 HZ, 40 - 175 kW *(Reference the "PSNA-EPG-F_PE400CNN" Caterpillar Price List)*	
D13	50%
D20	50%
D25	50%
D30	50%
60 HZ, 40 - 175 kW *(Reference the "PSNA-EPG-F_1100CNN" Caterpillar Price List)*	
D40-6 (3 phase)	50%
D50-6 (3 phase)	50%
D60-6 (3 phase)	50%
D80-6 (3 phase)	50%
D100-6 (3 phase)	50%
D125-6 (3 phase)	50%
D150-8 (3 phase)	50%
D175-2 (3 phase)	50%
D40-6S (1 phase)	50%
D50-6S (1 phase)	50%
D60-8S (1 phase)	50%
D80-2S (1 phase)	50%
D100-6S (1 phase)	50%
60 HZ, 40 - 60 kW *(Reference the "PSNA-EPG-F_C4.4LCAN" Caterpillar Price List)*	
D40-6	31%
D50-6	31%
D60-6	31%
D40-2LC	31%
D50-2LC	31%
D60-2LC	31%
60 HZ, 40 - 100 kW *(Reference the "PSNA-EPG-F_C4.4PGAN or C4.4PGBN" Caterpillar Price List)*	
D40 (3 phase)	31%
D50 (3 phase)	31%
D60 (3 phase)	31%
D80 (3 phase)	31%
D100 (3 phase)	31%
D40-S (1 phase)	31%
D50-S (1 phase)	31%
D60-S (1 phase)	31%
D80-S (1 phase)	31%
D100-S (1 phase)	31%
60 HZ, 125 - 175 kW *(Reference the "PSNA-EPG-F_C6.6PGAN" Caterpillar Price List)*	
D125-6 (3 phase)	35%
D150-8 (3 phase)	35%
D175-2 (3 phase)	35%
60 HZ, 200 kW *(Reference the "PSNA-EPG-F_C7.1PGAN" Caterpillar Price List)*	
D200-2 (3 phase)	35%
C9, 60 HZ, 200 - 300 eKW (Reference the "PSNA-EPG-F_C9PKGN" Caterpillar Price List)	
200 kW (600, 480, 240 Volt)*	38%
250 kW (600, 480, 240 Volt)*	36%
300 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	
C9, 60 HZ, 200 - 300 eKW (Reference the "PSNA-EPG-F_C9PGAN" Caterpillar Price List)	
200 kW (600, 480, 240 Volt)*	33%
250 kW (600, 480, 240 Volt)*	37%
300 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	
C13PGAN, 350kW & 400kW	37%
C15, 60 HZ, 350 - 500 KW (Reference the "PSNA-EPG-F_C15PGAN" Caterpillar Price List)	
350 kW (600, 480, 240 Volt)*	37%
400 kW (600, 480, 240 Volt)*	37%
450 kW (600, 480, 240 Volt)*	37%
500 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	
C15, 60 HZ, 455 - 500 KW (Reference the "PSNA-EPG-F_C15PKGN" Caterpillar Price List) *(EPA & CARB Tier 4 Interim Emissions Certified)*	
455 kW Prime Power, 500 kW Standby 600 Volt Tier 4i	20%
455 kW Prime Power, 500 kW Standby 480 Volt Tier 4i	20%
455 kW Prime Power, 500 kW Standby 208 Volt Tier 4i	20%
C18, 60 HZ, 550 - 600 kW (Reference the "PSNA-EPG-F_C18PGAN" Caterpillar Price List)	
550 kW (600, 480, 240 Volt)*	33%
600 kW (600, 480, 240 Volt)*	33%
*Other Voltages available, but may affect generator output	
C18, 60 HZ, 455 - 500 KW (Reference the "PSNA-EPG-F_C18PKAN" Caterpillar Price List) *(EPA & CARB Tier 4 Final Emissions Certified)*	
455 kW Prime Power, 500 kW Standby 480 Volt Tier 4F	20%
C27, 60 HZ, 750 - 800 KW (Reference the "PSNA-EPG-F_C27PGAG" Caterpillar Price List)	
750 kW	36%
800 kW	36%

C27, 60 HZ, 725 - 800 KW (Reference the "PSNA-EPG-F_C27PKGN" Caterpillar Price List)	
(EPA & CARB Tier 4 Interim Emissions Certified)	
725 kW Prime Power, 800 kW Standby 480 Volt Tier 4i	17%
725 kW Prime Power, 800 kW Standby 480 Volt Tier 4i Heavy Duty	17%
C32, 60 HZ, 1000 kW	
(Reference the "PSNA-EPG-F_C32PGBG" Caterpillar Price List)	
1000 kW	38%
3512C, 60 HZ, 1500 kW (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3512PGFL" Caterpillar Price List)	
Standby Rating Only - 1600 kW	37%
Standby Rating Only - 1750 kW	35%
3516C, 60 HZ, 2000 kW (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3516-PGDL" Caterpillar Price List)	
Standby Rating Only - 2000 kW	40%
Standby Rating Only - 2500 kW	38%
3516C-HD, 60 HZ, 2500 kW (EPA Tier 4) 480/277, 4160, 12470 Volts available	
(Reference the "PSNA-EPG-F_3516PGEL" Caterpillar Price List)	19%
3516C-HD, 60 HZ, 2000 kW (EPA Tier 4) 480/277, 460, 12470 Volts available	
(Reference the "PSNA-EPG-F_3516PGEL" Caterpillar Price List)	19%
3516B, 60 HZ, 2000 kW (EPA Tier 1)	
(Reference the "PSNA-EPG-F_3516PGDL" Caterpillar Price List)	
Low/Med Voltage - Standby Rating Only - 2000 kW	34%
High Voltage - Standby Rating Only - 2000 kW	34%
3516B, 60 HZ, 2250 kW (EPA Tier 1)	
(Reference the "PSNA-EPG-F_3516PGDL" Caterpillar Price List)	
Low/Med Voltage - Standby Rating Only - 2250 kW	34%
High Voltage - Standby Rating Only - 2250 kW	34%
G3412, 60 HZ, 375kW, 450kW, 500kW	
(Reference the "PSNA-EPG-F_G3412PGG" Caterpillar Price List)	26%
G3508, 60 HZ, 1200 RPM, 3 Phase, 480 Volt	
(Available by Design To Order Only)	17%
G3512 Stationary Certified 750kW, 1000kW	17%
(Reference the "PSNA-EPG-F_G3512NL" Caterpillar Price List)	
G3516 1040 kW Standby	17%
(Reference the "PSNA-EPG-F_G3516APGG" Caterpillar Price List)	
G3516	
(Reference the "PSNA-EPG-F_G3516AEPL" Caterpillar Price List)	17%
G3516C, 1475kW, 1600kW	17%
(Reference the "PSNA-EPG-F_G3516CTPL" Caterpillar Price List)	
G3516H 1966kW	17%
(Reference the "PSNA-EPG-F_G3516HNL" Caterpillar Price List)	
G3520H 2469kW	17%
(Reference the "PSNA-EPG-F_G3520HNL" Caterpillar Price List)	
G3520C 1800kW, 1900kW, 2055kW	17%
(Reference the "PSNA-EPG-F_G3520CPGL" Caterpillar Price List)	
CG132, CG170, CG260 (custom)	15%
Due to the customization and plethora of options, it is not feasible to provide a paper price list for these specific generator sets. Each quote is custom for the specific application. However, members will receive a 15% discount off of the configured list price from each member's local dealer.	
C175, 60 HZ, 4000 kW (EPA Tier 2 for Mobile and Stationary Use)	
(Reference the "PSNA-EPG-F_C175-20EL" Caterpillar Price List)	
4000 kW (with Fan Rating)	24%
C175, 60 HZ, 3000 kW (EPA Tier 4)	
(Reference the "PSNA-EPG-F_C175A16EL" Caterpillar Price List)	
3000 kW (with Fan Rating)	19%
C175, 60 HZ, 3000 kW (EPA Tier 2 for Mobile and Stationary Use)	
(Reference the "PSNA-EPG-F_C175-16EL" Caterpillar Price List)	
3000 kW (with Fan Rating)	30%
3100 kW (without Fan Rating)	30%
G30PGAN, 30kW	31%
G80PGAN, 50kW, 60kW, 80kW	31%
G150PGAN, 100kW, 125kW, 150kW	35%
Natural Gas (Optional LPG) Olympian Generator Sets, 25 - 300 kW	
(Reference the "PSNA-EPG-F_GASOLYGN" Caterpillar Price List)	
G25	26%
G35	26%
G40	26%
G45	26%
G50	26%
G60	26%
G70	26%
G80	26%

G100	26%
G130	26%
G150	26%
G150	26%
G175	26%
G200	26%
G230	26%
G250	26%
G275	26%
G300	26%
APS60 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List)	17%
APS100 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List)	17%
APS1000 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List)	17%
APS2000 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List)	17%
XQ20N, 60 HZ, 20 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad)) *(Reference the "PSNA-EPG-F_XQ20N" Caterpillar Price List)*	
20 kW* (3 or 1 phase)	45%
*There are several voltage options available	
XQ30N, 60 HZ, 30 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad)) *(Reference the "PSNA-EPG-F_XQ30N" Caterpillar Price List)*	
30 kW* (3 or 1 phase)	45%
*There are several voltage options available	
XQ35BN, 60 HZ, 35 kVA prime (EPA Tier 4 Final & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ35BN" Caterpillar Price List)*	23%
XQ60N, 60 HZ, 60 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad)) *(Reference the "PSNA-EPG-F_XQ60N" Caterpillar Price List)*	
60 kW* (3 or 1 phase)	45%
*There are several voltage options available	
XQ60BN Tier 4 Final	23%
XQ200N, 60 HZ, 200 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ200N" Caterpillar Price List)*	
182 kW* (3 phase or 1 phase)	45%
XQ350N, 60 HZ, 350 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ350N" Caterpillar Price List)*	
320 kW* (3 phase or 1 phase)	23%
XQ425BN, 60 HZ, 375 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ425BN" Caterpillar Price List)*	23%
XQ500N, 60 HZ, 500 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ500N" Caterpillar Price List)*	
455 kW* (3 or 1 phase)	23%
XQ570BN, 60 HZ, 500 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road)) (Reference the "PSNA-EPG-F_XQ570BN" Caterpillar Price List)	23%
XQ800N, 60 HZ, 800 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ800N" Caterpillar Price List)*	
725 kW* (3 or 1 phase)	23%
*There are several voltage options available	
XQ2000N, 60 HZ, 2000 kW (EPA Tier 2 & CARB Emissions Certified) *(Reference the "XQ2000N" Caterpillar Price List)*	
1825 kW* (3 phase)	19%
Switchgear (customizable)	12%
*Due to the customization and plethora of options, it is not feasible to provide a paper price list for Cat switchgear. However, members will receive a **12% discount** off of the configured list price from each member's local dealer.*	
UPS (Uninterruptible Power Supply)	
Flywheel Options	
(Reference the "UPS300AG" Caterpillar Price List)	
UP0300A - UPS 300 480V 60HZ	20%
UP300G - UPS 300 480V 60HZ	20%
UP0600G - UPS 600 480V 60HZ	20%
UPO300Z - UPS 300 480V 60HZ	20%
UPO600Z - UPS 600 480V 60HZ	20%
UPO900Z - UPS 900 480V 60HZ	20%
UPO1200Z - UPS 1200 480V 60HZ	20%
UPEXP02 - UPS Module Power Stage Expansion	20%
(Reference the "UPS750FG" Caterpillar Price List)	20%
Epic (Reference the "CATEPICG" Price List)	
Epic - Master Control Panel	10%
Epic - Generator Control Panel	10%
Epic - Utility Control Panel	10%
Supervisory Contol Panel (Reference the "CATSCPN" Price List)	
EMCP 4.4 SCP	10%
ATS (AUTOMATIC TRANSFER SWITCHES)	
444 ATS's available via ATS 2014 Price List Password: ATS2011	20%

3. City's Request for BAFO

Date March 7, 2017 ***Sent via electronic mail, this day***

Patty Redpath, Governmental Account Manager
Caterpillar Inc.
100 NE Adams St.
Peoria, IL, 61629
Email: redpath_patty@cat.com

Subject: Request for Proposal No. 161534 – Heavy Equipment, Parts, Accessories, Supplies and Related Services – Request for Best and Final Price

Dear **Mrs. Redpath**:

The City of Tucson is in receipt of Caterpillar's signed Summary of Negotiated Items for RFP No. 161534 – Heavy Equipment, Parts, Accessories, Supplies and Related Services. In order for the evaluation committee to proceed with the evaluation of your proposal, it is requested that you submit a revised offer.

Attached you will find your firms original discount off list, provided with the original offer. Please review this document, and determine if any additional discounts can be offered to the City and its participating partners. If you decide to keep your firm's pricing the same, you will still need to provide a revised discount off offer, and return it to me.

If there are other areas in your offer that you wish to revise, please also do so at this time.

Please provide a written response to me no later than **Wednesday, March 08, 2017 at 4:00PM.** You may e-mail your response to Jeffrey.Whiting@tucsonaz.gov.

The City of Tucson appreciates your attention to this request.. If you should have any questions, please contact me at (520) 837-4123.

Sincerely,

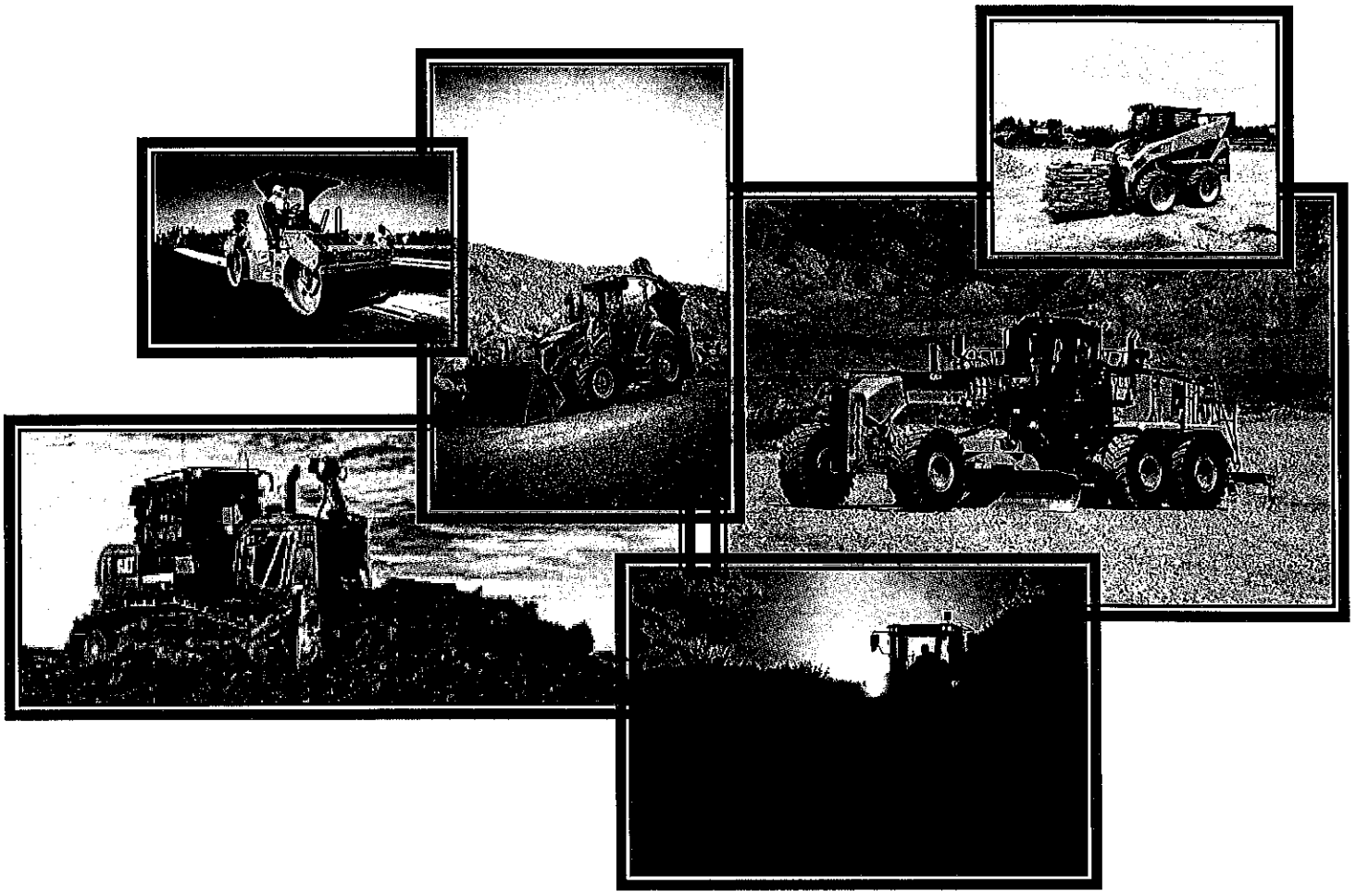
Jeffrey Whiting
Contract Officer

4. Caterpillar's Response to RFP 161534

ORIGINAL

CITY OF TUCSON

Request for Proposal
#161534
Heavy Equipment, Parts, Accessories, Supplies and Related Services



Submitted by:

Caterpillar Inc. / Empire Machinery

November 14, 2016

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12. Insurance Certificates
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CATERPILLAR®

Caterpillar Inc.
100 NE Adams Street
Peoria, IL 61629

November 14, 2016

Jeffrey Whiting
Department of Procurement
Contract Officer
255 W. Alameda, 6th Floor
Tucson, AZ 85701

Dear Mr. Whiting,

It is with great pleasure that Caterpillar Inc. has been given an opportunity to respond to RFP #161534. We have found that our participation in the previous contract was beneficial to us as a manufacturer, our authorized dealers, and from many positive points of feedback – from governmental customers as well.

As you will see in the following pages, we have structured the response in two parts. The response from Caterpillar Inc., considers the entirety of our US Dealer Network who will be encouraged to use this contract via National IPA. Then for a very specific response to the needs of the City of Tucson, our local authorized dealer, Empire Machinery has added a response to detail their capabilities and commitments.

To facilitate your review of the documents, we have separated these responses into five main sections:
1) Questionnaire Responses to the City of Tucson;
2) Questionnaire Responses to National IPA;
3) Proposed Exceptions;
4) Empire Machinery Responses;
5) Attachments

If you have any questions during your review of these documents we would be happy to clarify.

We look forward to continuing our relationship with the City of Tucson and National IPA and trust that our submission will not only meet your needs and expectations – but exceed them!

Most sincerely,

Ann Schreifels

Ann Schreifels
Governmental Sales Manager
Schreifels_ann_m@cat.com
309-338-5976

OFFER AND ACCEPTANCE

OFFER

TO THE CITY OF TUCSON:
The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

Caterpillar Inc.
Company Name

100 NE Adams St.
Address

Peoria IL 61629
City State Zip

Signature of Person Authorized to Sign

Brian Foster
Printed Name

North American Sales Manager
Title

For clarification of this offer, contact:

Name: Patty Redpath

Title: Governmental Account Manager

Phone: 309-494-4578

Fax: 309-675-4301

E-mail: redpath_patty@cat.com

ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. 161534-01.

Approved as to form this 25th day of April, 2017.

As Tucson City Attorney and not personally

CITY OF TUCSON, a municipal corporation

Awarded this 24th day of April, 2017.

for Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM
As Director of Procurement and not personally

REQUEST FOR PROPOSAL AMENDMENT

CITY OF TUCSON
DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726
ISSUE DATE: SEPTEMBER 29, 2016

REQUEST FOR PROPOSAL NO. 161534
RFP AMENDMENT NO. ONE (1)
PAGE NO. 1 OF 1
RFP DUE DATE: NOVEMBER 14, 2016 @ 4:00 P.M. Local AZ Time
RESPONSIBLE CONTRACT OFFICER: JEFFREY WHITING

A SIGNED COPY OF THIS AMENDMENT MUST BE SUBMITTED WITH YOUR SEALED PROPOSAL.
THIS REQUEST FOR PROPOSAL IS AMENDED AS FOLLOWS:

Heavy Equipment, Parts, Accessories, Supplies and Related Services

ITEM NO. ONE (1):

RFP DUE DATE: The Proposal Due Date and Time is hereby **changed**, and shall be **November 14, 2016 at 4:00pm**.

ITEM NO. TWO (2):

RFP PRE-PROPOSAL DATE: The Pre-Proposal Date and Time is hereby **changed**, and shall be on **October 12, 2016 at 10:00am, City Hall 1st Floor Conference Room, 255 W. Alameda, Tucson AZ 85701.**

ALL OTHER PROVISIONS OF THE REQUEST FOR PROPOSAL SHALL REMAIN IN THEIR ENTIRETY.
VENDOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.

Ann Schreifels 11/11/16
Signature Date

Ann Schreifels Governmental Sales Manager
Print Name and Title

Caterpillar Inc
Company Name

100 NE Adams St.
Address

Peoria IL 61629
City State Zip

PROPOSAL EVALUATION REQUIREMENTS

A. Method of Approach

1) National Program

1) Provide a response to the national program by including a detailed response to Attachment A, Exhibit A, National IPA Response for National Cooperative Contract. Provide any proposed exceptions to Attachment A, Exhibit B, National IPA Administration Agreement for the City's consideration.

Caterpillar Response

Caterpillar will be providing a response to RFP #161534 on behalf of Caterpillar and Participating Caterpillar's Dealer's in an effort to support the terms included herein on a national scale. Additionally, Caterpillar has asked the local authorized dealer, Empire Machinery, to provide supplemental responses to applicable questions specific to the manner in which they will be specifically supporting the contract for the City of Tucson. From a national standpoint, these supplemental responses should only be considered examples of the manner in which business may be conducted. The contract may be supported differently in jurisdictions other than those serviced by Empire Machinery.

Please also see our attached proposed exceptions.

2) Distribution Network

a. Describe how your firm proposes to distribute the equipment, accessories, parts, repair and services nationwide. Describe any parts the distribution network will have "on-hand" and those that must be ordered.

Caterpillar Response

-Confidential-

Caterpillar products (equipment, accessories, parts, repair and services) are sold and supported through Caterpillar's authorized Dealer network. These Dealers are established, independent businesses that understand the needs of their local customers and communities. Across North America, the majority of Caterpillar Dealers have supported the needs of their local customers and communities for decades.

In North America Caterpillar has 15 Product Distribution Centers (PDCs), which stock Cat machines in inventory to help supply equipment for our customers' needs/demands. The current estimated dollar value of machines in Caterpillar PDCs are estimated at more than $400M. Cat Dealers across North America also carry Cat machines in their inventory for immediate sale. The number and the type of machines in our dealer inventory will vary based on local demand and desired configurations.

Caterpillar maintains 10 parts distribution warehouses throughout North America to ensure that almost all parts can reach our dealers within 24-48 hours. In addition to the Caterpillar owned parts inventory, Cat dealers collectively stock over $1 Billion in protective parts inventory to minimize downtime for their customers. Currently the national average for 24-hour parts availability is at a 99% fill rate.

Product support and parts availability are the hallmarks of Caterpillar's success and we take great pride in leading the industry in availability.

Please refer to subsection d below which expands on some of these capabilities.

b. Identify all other companies/distributors/dealers that will be involved in processing, handling or shipping the products/services to Participating Public Agencies.

Caterpillar Response

Caterpillar and Cat Dealers are the two principle parties involved in providing products/services to public agencies. In most cases, the Cat dealers have their own transport trucks and trailers capable of handling or shipping the products/services from the Caterpillar facilities to the Dealership location(s), as well as to the Participating Public Agencies. Both Caterpillar and the dealers may contract transport out to meet time deadlines, and/or to reduce cost for our customers.

The transport companies used by Caterpillar or Cat dealers must meet the strict requirements of our transportation plan. Additional details can be provided upon request.

c. Provide the number, size and location of your firm's manufacturing facilities, distribution facilities, warehouses, service facilities and dealer networks as applicable. State the estimated dollar value of your inventory. Include a map showing heavy equipment distribution network coverage nationwide.

Caterpillar Response

Caterpillar operates parts distribution centers in the following locations: Morton, Illinois; Arvin, California; Denver, Colorado; Miami, Florida; Atlanta, Georgia; St. Paul, Minnesota; Clayton, Ohio; York, Pennsylvania; Waco, Texas; Spokane, Washington; Melbourne, Australia; Queensland, Australia; Grimbergen, Belgium; Piracicaba, Brazil; Shanghai, China; San Luis Potosi, Mexico; Singapore, Republic of Singapore; Moscow, Russia; Johannesburg, South Africa, and Dubai, United Arab Emirates. We also own or lease other facilities that support our distribution activities.

Our current principal manufacturing facilities include those used by the following segments in the following locations:

CONSTRUCTION INDUSTRIES	
U.S. Facilities	Facilities Outside the U.S.
Arkansas: North Little Rock **Illinois:** Aurora, Decatur, East Peoria **North Carolina:** Clayton, Sanford **Texas:** Victoria **Georgia:** Athens	**Belgium:** Gosselies **Brazil:** Campo Largo, Piracicaba **China:** Suzhou, Wujiang Xuzhou, Qingzhou **France:** Grenoble, Echirolles **Hungary:** Godollo **India:** Thiruvallur **Indonesia:** Jakarta **Japan:** Akashi, Sagamihara **Poland:** Janow, Sosnowiec **Russia:** Tosno, Novosibirsk **United Kingdom:** Desford, Stockton **Thailand:** Rayong
RESOURCE INDUSTRIES	
Illinois: Aurora, Decatur, East Peoria, Joliet **North Carolina:** Winston-Salem **Pennsylvania:** Houston **South Carolina:** Sumter **Tennessee:** Dyersburg **Texas:** Dennison **Wisconsin:** South Milwaukee	**Australia:** Beresfield, Burnie **China:** Langfang, Tongzhou, Wuxi, Zhengzhou **Czech Republic:** Ostrava **France:** Arras **Germany:** Dortmund, Lunen **India:** Hosur, Thiruvallur **Indonesia:** Batam **Italy:** Jesi **Japan:** Sagamihara **Mexico:** Acuña, Monterrey, Reynosa, Torreon **Russia:** Tosno **Thailand:** Rayong **United Kingdom:** Peterlee
ENERGY & TRANSPORTATION	
Alabama: Albertville, Montgomery **California:** San Diego **Georgia:** Griffin **Illinois:** LaGrange, Mossville, Mapleton, Pontiac **Indiana:** Lafayette, Muncie **Kentucky:** Decoursey, Louisville, Mayfield **South Carolina:** Newberry **Texas:** Channelview, DeSoto, Mabank, San Antonio, Schertz, Seguin, Sherman	**Australia:** Revesby **Belgium:** Gosselies **Brazil:** Curitiba, Hortolandia, Piracicaba, Sete Lagoas **China:** Tianjin, Wuxi **Czech Republic:** Zatec **Germany:** Kiel, Mannheim, Rostock **India:** Hosur, Aurangabad **Mexico:** San Luis Potosi, Tijuana **Republic of Singapore:** Singapore **Sweden:** Ockero Islands **Switzerland:** Riazzino **United Kingdom:** Larne, Monkstown, Peterborough, Sandiacre, Shoreham, South Queensferry, Springvale, Stafford, Wimborne

Caterpillar inventory is stated at the lower of cost or market. Cost is principally determined using the last-in, first-out (LIFO) method. The value of inventory totaled $9.7B at December 31, 2015.

Information about the Cat dealer network is set forth in subsection 2.d. below.

d. Describe your dealer network and their role in providing products, services, etc. under this contract.

Caterpillar Response

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective service territories. Specific information about dealers is located on http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealers currently employ more than 46,000 total employees. 5,500 of these employees are dedicated to machine sales and many dealers have sales persons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to product support. The dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

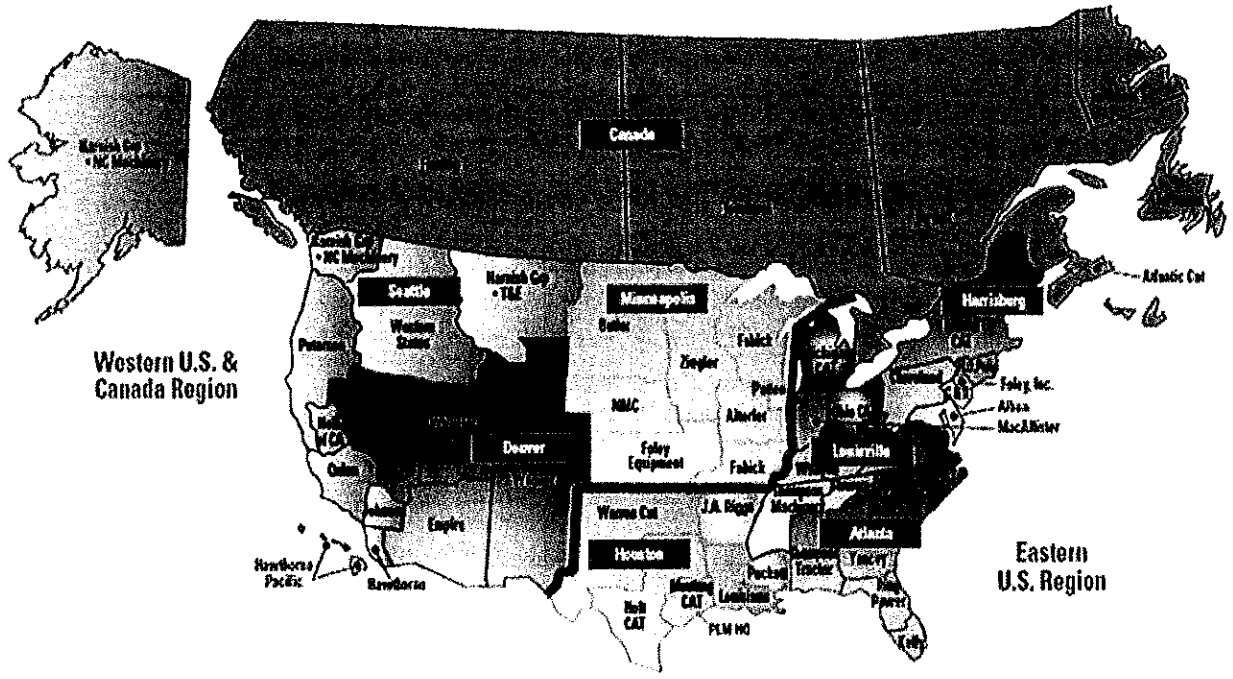

Image 1: North American Dealer Network

3) Product

a. Provide a detailed written response illustrating how the equipment, accessories, parts, supplies and related services offered will meet the requirements of this solicitation. Offerors shall identify and describe their heavy equipment categories. For each proposed category, describe in detail and provide at a minimum the following types of information:

1. Identification and description of equipment categories offered.

Caterpillar Response

Caterpillar is the world's leading manufacturing of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. Caterpillar also provides financing and related services through its Financial Products division.

All products sold by Caterpillar through its dealer network in the United States are included in this proposal. The product lines most relevant to this solicitation included but not limited to:

Construction & Paving Equipment
Articulated Dump Trucks
Asphalt Cold Planers
Asphalt Rotary Mixer
Dozers / Tracked
Dozers / Wheeled
Excavators / Tracked
Excavators / Wheeled
Loaders / Tracked
Loaders / Wheeled
Motor Graders
Paver / Tracked
Paver / Wheeled
Asphalt Compactors - Vibratory
Asphalt Compactors – Pneumatic
Scrapers
Skid Steer Loaders / Wheeled
Compact Track Loaders
Multi-Terrain Loaders
Skip Loaders
Soil Compactors
Telehandlers

Landfill Equipment
Landfill Dozers
Landfill Compactors
Landfill Scrapers

Work Tools (requires host machine)
Buckets
Augers
Thumbs
Hammers
Trenchers
Couplers

Generators & Power Systems
Gas and Diesel Engines
20kW to 16 mW Single Engines
Prime Power
Cogeneration

Please refer to supplemental proposal, Empire Machinery Products and Services subtitled "Allied Products" for additional non-Cat manufactured/ branded lines of equipment offered by Cat dealers for purchase under this contract.

2. Identification and description of sub categories.

Caterpillar Response

Each of the equipment categories above consists of several models of machines that vary by size, horsepower and productivity.

With more than 239 models of Construction and Governmental products offered (not including mining, power generation, and engines), and multiple application-specific configurations, Caterpillar will be able to support virtually any governmental equipment need. Caterpillar is the only manufacturer to offer this many distinct models of machines, configurations and attachments.

A complete current listing with specifications and details is maintained at:

http://www.cat.com/en_US/products/new/equipment.html

Recycling and Waste
Caterpillar is the only manufacturer to offer a full line of machines specifically designed to handle landfill and waste applications.

Specific information can be found on our website at:

http://www.cat.com/en_US/products/new/by-industry/waste.html

Construction Equipment
As the recognized global leader in construction equipment, Caterpillar has repeatedly demonstrated its expertise in helping governments and contractors worldwide continue to develop and maintain infrastructure. Caterpillar has the largest breadth of products to support these applications. Caterpillar continues to lead the industry in investing hundreds of millions of dollars each year in research and development.

This ensures that what we sell is high performing, reliable, long lived products resulting in the best overall best value.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/construction.html

Technology & Solutions

Information and data are quickly becoming vital in heavy machine operation and maintenance. Caterpillar is at the forefront with the variety of solutions available to customers. Whether the goal is to track hours and location or to dive deep into operation and maintenance practices, Caterpillar has a technology solution to meet that need.

For more detailed information please visit:

http://www.cat.com/en_US/support/operations/technology.html

Paving

Road building and maintenance are core competencies of the paving division of Caterpillar. We build and support a wide-ranging product line that includes everything from compactors and pavers, to cold planers to road reclaimers.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/paving.html

Work Tools

In addition to machines, Caterpillar will also be offering its full line of work tools to add even more versatility to the host of Caterpillar machines. This will provide an even greater selection of solutions. Caterpillar currently is a leader in both sales and models offered with more than 1800 different work tool options currently available.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/attachments.html

Other/Miscellaneous/Allied

There are other product lines that don't fall neatly into the categories above. Should the City of Tucson have a need for them, they are included as part of this contract and can be offered for sale by Dealers.

Additionally, Dealers often carry lines of complementary products not manufactured or marketed by Caterpillar that can be sold under this contract as allied machines. With this in mind, most of the products listed in this RFP can be provided either through Dealers as a branded Caterpillar product, or as allied equipment.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Allied products include but are not limited to:

Construction and Mining	On Road Industrial
Allmand (Light Towers)	Fuso Trucks
Broce Brooms	Mac Trailers
JLG (Man lifts)	Maintainer (Service Bodies)
Mega (Water tanks, Towers and Trailers)	Murray Trailers (Heavy Haul)
Genie (Man lifts and Telehandlers)	Trail King (Small to Heavy Haul)
Progressive Solar (Solar Power Light Plants)	UTB (Service Bodies)
Multiquip Power	Fleming Trailers
Sullair Air Compressors	
Rockland (Buckets and Dozer Blades)	
Paladin (Couplers and Attachments)	
CE Attachments (Attachments)	
Dymax (Attachments)	
Weiler Paving Products (Pavers, Tack Truck & Trailers, Wideners)	
Wain-Roy	
Agriculture	**Technology**
Challenger Tractors	Spectra Precision (Survey Instruments)
Massey Ferguson Tractors	Trimble (2D and 3D Grading Systems)
Rome (Construction Grade Discs and Plows)	Accugrade (Caterpillar Grade Control)
Woods (Scrapers and Mowers)	Seco (Surveying and Site Prep)
Gearmore (Attachments)	Laserline (Laser Controls)
Reynolds (Scrapers)	Apache (Grade Control, GPS and Lasers)
TG Schmeiser (Box blades, Land Levelers)	Level Best (Laser Grading Box)
Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	

Although these additional products and or services will be solely provided and supported by Empire Machinery for the customers within the territory Empire Machinery serves, this list of Allied products is an example for similar products and or services that can be obtained from other Dealers across the country.

3. Identify accessories, parts, services, etc. that are available through the manufacturer.

Caterpillar Response

All Caterpillar products and services will be provided through Caterpillar's North American Dealer Network.

In North America alone, Cat dealers inventory over $1.0 Billion in protective parts stock to minimize machine downtime for its customers. Caterpillar currently has an industry-leading 24-hour parts fill rate of 99%.

Caterpillar doesn't focus on just the current model parts; we provide the most comprehensive line of legacy and remanufactured parts in the industry.

Most Caterpillar machines are designed for multiple lives, meaning once the first hours of useable life has been met, it can be rebuilt once or in many cases two or three times again. Because of the long life cycles of the Caterpillar product, we make sure we have legacy parts available to ensure that customers get the full life out of their machines at the lowest cost per hour.

In addition to providing legacy parts, Caterpillar boasts the largest availability of remanufactured parts in the Industry. These parts are brought back to new standards and include the same warranty as new parts all while only costing a fraction when compared to new.

Caterpillar also offers a full line of work tools and attachments to add even more versatility to the host machine. This will provide an even greater selection of solutions for the customer. Caterpillar currently holds the market leader position in both sales and models offered with more than 1,800 different work tool options currently available.

4. Identify accessories, parts, services, etc. that are available through the authorized dealer.

Caterpillar Response

In addition to the new machines and power systems mentioned above, Dealers also offer a complete line of OEM repair parts, work tools and attachments.

Services such as repairs, rebuilds, maintenance, financing, extended protection plans, training, consulting, remote monitoring and more are offered by Dealers.

Additional services and other lines of equipment may be available depending on local dealer capabilities.

The purchasing of used equipment and renting equipment is included under this contract and sale/rental prices will follow the same maximum price minimum discount method as purchasing new equipment off this contract. This ensures when purchasing/renting these types of machines they are competitively priced based on like machines in the market place.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

5. Provide descriptions, catalog(s) or website links for accessories, parts and supplies offered.

Caterpillar Response

To see Caterpillar's full line of heavy equipment, work tools, and services please visit: www.cat.com

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

6. Do you offer color choices for each product listed?

Caterpillar Response

Caterpillar machines are painted Caterpillar yellow, which is a copyrighted color and is proprietary. Caterpillar will meet customers' unique paint color requirements for an additional fee which must be quoted and agreed to prior to the start of build.

b. Describe descriptions, catalog(s) or website links for accessories, parts and supplies offered, including:

1. types of warranties available (by category or equipment)

Caterpillar Response

Caterpillar is proud to offer robust warranty for its products.

Caterpillar machines come with standard warranties against defects in material and workmanship. Warranty inclusions and exclusions will vary by product and details can be provided at any point in the purchase process.

The majority of new machines included under this solicitation will qualify for 12 months/unlimited hours warranty. Some products, notably compact track loaders and mini excavators, qualify for 12 months/1500 hours warranty.

Additional extended equipment protection plans can be customized to meet each customer's specific need. The following is an example of some of the options that would be available through the local supporting Cat dealer.

140M3 Motor Grader	Months	Hours
Premier	24 to 84	5000 to 7500
Powertrain & Hydraulics	24 to 84	5000 to 10000
Powertrain	24 to 84	5000 to 10000

Please note that all manufacturers' warranties and/or extended coverage plans do not cover the same components and/or systems that Caterpillar's protection plans cover. Repairs and or replacement of components not covered by other manufacturers can present a significant cost to the overall ownership of a machine. The breadth of coverage provided through Caterpillar's coverage plans re-emphasizes the confidence Caterpillar has in its products as well ensures the lowest total cost solution for our customers.

Also, please reference the two examples of typical warranty statements which are attached to this proposal.

For expanded explanation of the benefits of Caterpillars warranty, please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

2. description of your warranty claims procedures.

Caterpillar Response

Caterpillar warranty is administered by the Dealers. Dealers are best positioned to see that the customer receives outstanding service for their warranty repairs.

Warranted claims will be presented by the customer to the supporting Dealer and will be administered at the local level. The supporting Dealer will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customer.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

3. description of your policy addressing warranty issues related to:

   i. Major Component Failures
   ii. Engineering Deficiencies
   iii. Describe your firm's standard response time to address warranty failure issues.

Caterpillar Response

Caterpillar is proud to offer robust warranty for its products.

All defects in materials and workmanship are fully covered under the warranty period. All claims will be investigated by the supporting Dealer and determined whether they fall under the warranty policy or under the category of normal repair and maintenance.

Of course if there is a major component failure significantly earlier than its predicted life, the dealer will investigate to determine the likely cause of failure. Should the cause be determined to be design or manufacturing related, the customer, Dealer, and a Caterpillar representative will work together to find a solution that is agreeable to all parties.

There is not a nationwide warranty response time guarantee because machines, applications, repair requirements and availability needs will vary by geography and customer. In every situation, the Dealer will work to resolve warranty issues as quickly as possible and/or provide an interim working solution.

For additional information regarding the description of policy addressing warranty issues related to; Major Component Failures, Engineering Deficiencies, and Empire Machinery's standard response time to address

warranty failure issues, please refer to the supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

c. Is there a dedicated support representative that the City should contact? If yes, provide their name and complete contact information.

Caterpillar Response

For all support related to this contract, the account manager at Caterpillar is:

Patty Redpath
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

For specific product support at Empire Machinery, please refer to the supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

d. Provide information which details the costs, types, and extents of available extended warranty coverage for heavy equipment.

Caterpillar Response

Additional extended protection plans are available for purchase. Three major types of protection are generally offered: Powertrain, Powertrain + Hydraulics and Premier. Customization of Extended Protection Plans is also an option available through our dealer network.

The costs for these extended plans vary by product, type of coverage, machine application and length of coverage. Because Dealers are independently owned businesses with widely varying geographic service territories, the actual costs associated with supporting such warranties will vary and cannot be quoted on a national scale by Caterpillar as fixed amounts.

Such factors include but are not limited to the Dealer's shop labor rates, transportation costs both for the machine as well as the technician and many others. It is recommended that warranty and extended protection plan considerations be clearly stated and agreed to prior to any transaction as a result of this contract.

For expanded explanation of the benefits of Caterpillars warranty please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer service territory.

e. Describe how your firm is anticipating and ensuring compliance with the Environmental Protection Agency (EPA) emission changes.

Caterpillar Response

Caterpillar fully supports the efforts of the Environmental Protection Agency and we are proud to offer the largest number of machines compared to competitors, meeting Tier 4 final emissions requirements. All new machines are fully compliant under current emissions regulations which do vary by horsepower and intended use.

Managing a broad global product line is challenging so to ensure we are properly prepared for any additional regulations, Caterpillar has a dedicated team of experts that works very closely with EPA officials.

In 2016, Caterpillar was once again named to the prestigious Dow Jones Sustainability Index (DJSI) List, marking the 17th time we have been included in the DJSI. Caterpillar leads its global peers in the Capital Goods sector in the areas of innovation management, risk and crisis management, labor practices and human rights, as well as corporate citizenship and philanthropy.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

f. Submit all information that will aid the City in evaluating your proposal

Caterpillar Response

To view Caterpillar's achievements in sustainability, please view our most recent Sustainability Report at:

http://www.caterpillar.com/en/company/sustainability.html

Also, please note the industry awards Caterpillar has received in the last few years.

Roads and Bridges is a highly regarded industry trade publication devoted to equipment owning and operating customers. Each year Roads and Bridges publishes a list of equipment models and categories that have been identified by these customers as being the best in class for their respective categories and size classes.

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Year	Category	Level	Model
2015	Asphalt Pavers	Gold	CAT AP1055E
2015	Asphalt Pavers (Small)	Gold	CAT AP555E
2015	Asphalt Screeds	Gold	CAT AS3301C
2015	Compaction (Asphalt)	Gold	CAT CB54B
2015	Compaction (Soil)	Gold	CAT CS56B
2015	Concrete Breakers	Gold	CAT H120Es
2015	Dozers	Gold	CAT D6T
2015	Excavators	Gold	CAT 323F
2015	Loader Backhoes	Gold	CAT 420F
2015	Mini Excavators	Gold	CAT 308E2
2015	Motor Graders	Gold	140M2
2015	Recyclers/Reclaiming Machines/Soil Stabilizers	Gold	CAT RM500
2015	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2015	Specialty Excavators	Gold	CAT 335F
2015	Telehandlers	Gold	CAT TH514C
2015	Trucks (Off-Highway)	Gold	CAT 772G
2015	Wheel Loaders	Gold	CAT 938K
2015	Asphalt Milling Machines	Silver	CAT PM200
2015	Skid-Steer Loaders	Silver	CAT 259D
2015	GPS/Laser-Guided Equipment	Bronze	Cat Grade Control
2014	Asphalt Pavers	Gold	CAT AP1055E
2014	Asphalt Pavers (Small)	Gold	CAT AP555E
2014	Asphalt Screeds	Gold	CAT AS3301C
2014	Compaction (Asphalt)	Gold	CAT CB54B
2014	Compaction (Soil)	Gold	CAT CS56B
2014	Concrete Breakers	Gold	CAT H120Es
2014	Dozers	Gold	CAT D6K2
2014	Excavators	Gold	CAT 336E H
2014	Loader Backhoes	Gold	CAT 420F
2014	Mini Excavators	Gold	CAT 308E2
2014	Motor Graders	Gold	14M2
2014	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2014	Specialty Excavators	Gold	CAT 328D LCR
2014	Telehandlers	Gold	CAT TH514C
2014	Trucks (Off-Highway)	Gold	CAT 773G
2014	Wheel Loaders	Gold	CAT 938K

2014	Recyclers/Reclaiming Machines/Soil Stabilizers	Silver	CAT RM500
2014	Skid-Steer Loaders	Silver	CAT 299D
2014	Asphalt Milling Machines	Bronze	CAT PM200
2013	Concrete Breakers	Gold	CAT H90C
2013	Asphalt Pavers	Gold	CAT AP1055E
2013	Asphalt Pavers (Small)	Gold	CAT AP555E
2013	Asphalt Screeds	Gold	CAT AS3301C
2013	Compaction (Asphalt)	Gold	CAT CB64
2013	Compaction (Soil)	Gold	CAT CS56
2013	Recyclers/Reclaiming Machines/Soil Stabilizers	Gold	CAT RM500
2013	Track type Tractors (Dozers)	Gold	CAT D6T
2013	Excavators	Gold	CAT 320D L
2013	Specialty Excavators	Gold	CAT 328D LCR
2013	Loader Backhoes	Gold	CAT 420E
2013	Mini Excavators	Gold	300.9D
2013	Telehandlers	Gold	CAT TH514
2013	Wheel Loaders	Gold	CAT 930H
2013	Off-Highway Trucks	Gold	CAT 775G
2013	Motor Graders	Gold	12M2 AWD
2013	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2013	GPS/Laser-Guided Equipment	Silver	Cat Grade Control
2013	Skid-Steer Loaders	Silver	CAT 259B3
2013	Asphalt Milling Machines	Bronze	CAT PM200
2013	On-Highway Trucks	Bronze	CT660

Included Links for additional Road and Bridges information:

http://www.cat.com/en_US/articles/customer-stories/awards/cat-products-receive-top-100-and-contractors-choice-awards.html

http://www.cat.com/en_US/articles/customer-stories/awards/cat-products-receivecontractorschoiceawardsin19categories.html

http://www.cat.com/en_ID/articles/customer-stories/cat-products-receivecontractorschoiceawardsin21categories.html

The following is a list of additional industry accolades that Caterpillar has received in recent years:

- Caterpillar Ranked #82 on Interbrand's Best Global Brand List
- Caterpillar wins 2016 ANNY excellence in analytics award
- Caterpillar's Commitment to Sustainable Development Recognized by United Nations
- Caterpillar helps to protect 2,100 acres of coastal wetlands in California
- Caterpillar Awarded the Vision for America Award from the Keep America Beautiful Organization
- Caterpillar named finalist for prestigious sustainability honor – Circular Economy Award
- Caterpillar ranked 12 on the "Top 50 Employers" list in Women Engineer Magazine
- Caterpillar Named One of Fortune's World's Most Admired Companies In 2015
- Caterpillar Recognized on Interbrand's 2014 Best Global Green Brands
- Caterpillar named on Diversity Inc's Top 25 Noteworthy Companies for Diversity List for 2014
- Caterpillar of Australia Recognized For Commitment To Workforce Diversity
- Caterpillar Named One of North Carolina's Best Employers of 2014 by Business North Carolina
- Caterpillar Celebrates 60 Years in Brazil and is Chosen One of the Best Workplaces in the Country
- Caterpillar Named One of FORTUNE's World's Most Admired Companies in 2014
- Caterpillar Receives National Recognition for Hurricane Sandy Response
- Caterpillar Named a North Carolina Top 50 Family-Friendly Company
- Caterpillar Recognized for Supplier Diversity
- Caterpillar is #12 most Reputable Big Company
- Caterpillar ranked 27 on Fortune Magazine's list of the Worlds Most Admired Companies
- Caterpillar ranked 12 on the "Top 50 Employers" list in Women Engineer Magazine
- Caterpillar World Headquarters Awarded LEED-EB Gold from US Green Building Council

- Caterpillar China Wins 100 Best HR Management Companies of 2010
- Illinois Governor's Pollution Prevention Award
- Caterpillar World Headquarters Awarded US EPA Energy Star
- Caterpillar receives the International Pipeline and Offshore Contractors Association award for Eco Operator Training
- Caterpillar in Top 20 of Social Responsibility Ratings
- Caterpillar Chairman receives Distinguished Citizen Award
- Caterpillar Inc. Recognized as one of the World's Most Ethical Companies
- Newsweek Green Rakings ranks Caterpillar 72nd out of top 500 companies, 3 of top 20 industrial goods.
- Caterpillar ranked #9 on the 19th Annual "Top 50 Employers" list in Women Engineer magazine

4) Service

a. Provide a detailed written response illustrating how your firm or the authorized dealers will provide services to meet the requirements of this solicitation. Offerors shall provide the proposed services that will meet the Service Requirements section of the Scope of Work outlined in this solicitation. For each proposed category, describe and/or provide details explaining your capabilities. In your response include information such as:

1. Provide detailed information explaining your service capabilities.

Caterpillar Response

Caterpillar takes great pride in our foundation of outstanding product and customer support. While the actual service and support of products sold through this contract will be conducted by the selling dealer, Caterpillar supports their efforts through many channels.

We start by designing durable, reliable, long-lived products with ease of operation and service in mind. These products are thoroughly tested to validate the design. When approved for production, a very strict protocol is put into place to ensure strict adherence to the build plan. Quality inspections occur throughout the manufacturing process and again when it arrives at the local dealership.

Prior to first shipment, Caterpillar ensures that Dealer has access to Owning & Operating Manuals, Service Manuals, Parts Books, and Disassembly & Assembly Manuals.

Every Dealer has a process in place to troubleshoot and diagnose problems. Caterpillar also maintains a field force of technical representatives to ensure customer downtime is minimized. Factory service engineers work very closely with Dealers in situations where a problem cannot be easily resolved and engage all resources necessary for problem resolution.

2. Provide detailed information explaining the service capabilities of your authorized dealers.

Caterpillar Response

Caterpillar and Cat dealers offer industry leading product support. Field Service trucks with resident field technicians and parts drops provide a level of service unmatched in the industry to reduce down time and increase productivity.

All participating Dealers employ trained, experienced technicians to support Caterpillar's full range of products. Dealer Technical Communicators (TCs) provide additional support to field/shop technicians to aid in rapid product or application resolution. Dealer TCs have a direct line of communication with Caterpillar Inc. through the Dealer Solution Network to expedite problem solving.

Caterpillar's North American dealer network currently employs over 46,000 employees of which approximately 70% are dedicated to the product support business. With nearly 700 dealer branch locations and approximately 7,000 field service personnel, these highly skilled and trained Cat dealer technicians are in close proximity to provide unmatched service capabilities to meet your servicing requirements. As a commitment to servicing our customers, Cat dealers invest over $75 Million annually in technician, parts counter, and product support representative training. Over the last 90 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry through a financially healthy and viable dealer network that is dedicated to the business of our customers.

Caterpillar's ability to meet 24-hour service needs is based on servicing dealer discretion at time of transaction. However, most dealers offer a 24-hour emergency service call-out option with a price based on local rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

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Image 2: US Dealer Locations

3. Describe the maintenance programs offered. If a maintenance program is selected by the City, will your firm provide a loaner or rental machine if the machine is down for more than 24 hours?

Caterpillar Response

All Cat Dealers can customize maintenance programs for their customers based on each customer's individual needs. When a service or maintenance program is created, the terms of the program supported by the local Cat Dealer will outline any replacement / loaner options.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

4. Describe your training programs, addressing, at a minimum, the following:

   i. How will equipment training be conducted?
   ii. Describe the training curriculum for the equipment operators.
   iii. Describe the training curriculum for the service technicians.
   iv. How will you accommodate various work shifts?
   v. What type of documentation is provided with the proposed training?
   vi. Is a "train the trainer" program available? Is this training different than the regular initial training? Can training sessions be recorded for future use by the agency?
   vii. Is the training provided by the manufacturer, dealer or both?

Caterpillar Response

Dealers support a variety of training options. Upon delivery of the machine, operators as well as technicians will be given basic equipment orientation, operating procedures, and service maintenance information required to put the machine into service. Should an agency require additional training, such consideration can be included in the customer's equipment quotation.

Caterpillar also offers a variety of operator training classes that provide certification to those agencies that require a higher level of operational expertise.

For additional information on these and other training options, please visit: http://www.cat.com/en_US/support/operations/cat-training.html

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

5) Ordering and Invoices

a. Describe your order process.

Caterpillar Response

Understanding that dealers have been developing and maintaining customer relationships at the local level for more than 90 years, it is Caterpillar's intent to continue to support this proven model. It will be the local Dealer that will quote, deliver, receive payment and support the products in this proposal per the terms that have been outlined.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

b. How do agencies work with your firm to determine appropriate equipment needs?

Caterpillar Response

Dealers have sales and application specialists who can help an agency identify the best equipment option to fit the application. Once a need has been identified, it would be in the customer's best interest to consult with the local Dealer to determine the best possible equipment solution. Should additional expertise be required, Caterpillar has expertise within the company that can also provide assistance to ensure the most favorable outcome

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

c. Describe the equipment delivery process and your delivery commitment.

Caterpillar Response

It will be the local Dealer that will quote, deliver, receive payment for, and support the products in this proposal per the terms that have been outlined.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

d. What is your standard equipment delivery timeframes?

Caterpillar Response

Depending on Dealer inventory, delivery can be as quick as a day, but depending on demand, orders from the factory may take as long as 180 days to deliver. In most cases Dealers have been able to commit to a less than 90 day delivery timeframe. However, timelines need to be confirmed for each purchase.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

e. How does your firm communicate order cut off dates to your customers?

Caterpillar Response

Any questions with regards to an order will be addressed by the local supporting Dealer.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

f. Identify and describe any exceptions or challenges.

Caterpillar Response

Should an urgent US military equipment order be placed at the factory it will take precedence over any other customer orders which may delay the actual delivery of any non-military orders to the end user.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

g. Provide details of the capabilities of your E-Commerce website including ability to display contract pricing, on-line ordering, order tracking, search options, order history, technical assistance, lists, technical data and documentation, identification of alternate green products, etc.

Caterpillar Response

E-Commerce capabilities are set up at a local level with the supporting Dealer. Most Dealers allow online parts ordering and while it will vary based on the individual Dealer, many offer customer portals that allow communications specific

a customers' account. This could include machine purchase and service history, maintenance schedules, technical documentation, condition monitoring and more. Please inquire locally to determine what services are available online.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

h. Describe your invoicing process. Is electronic invoicing available? Is summary invoicing available? Are there other options on how an agency receives an invoice? Submit sample invoices.

Caterpillar Response

Dealers can currently provide a pro-forma invoice prior to receipt of the actual invoice. Requests for electronic invoicing should be made to the selling Dealer. Not all Dealers are able to offer electronic invoices.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

i. Describe how problems – such as a customer ordering a wrong product; a customer receiving a defective or wrong product; etc. – are resolved.

Caterpillar Response

In most cases working with the dealer account manager will alleviate any wrong order issues. In the event that this does not resolve the issue, the Dealer will work to resolve incorrect orders as cost effectively as possible.

Defective products are covered by manufacturer's warranty.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

j. Describe how your firm measures performance including identification, calculation, tracking and reporting of measurements.

Caterpillar Response

Purchase orders received from a customer can be filled by an authorized dealer from inventory or by placing a new order from the factory. In either scenario, the customer will be advised about the timeline prior to delivery.

When sold, Dealers are obligated to report the sale to Caterpillar with detailed information about the sale. This creates a record in the corporate systems so that we are aware when a sale has been made to a governmental agency using this contract (National IPA).

Machine sales are only reported when the Dealer has input the transaction information into the system and the machine has been assigned to the respective industry. The sales are compiled monthly and reported back to National IPA.

k. Titles- will equipment be provided with proof of registration with the state?

Caterpillar Response

Where appropriate, all titles will be provided with proof of registration with the state.

l. Will each product be delivered free of distributor advertising?

Caterpillar Response

The buying agency and Dealer can determine what advertising is appropriate or not. There will never be a manufacturer requirement for the machine to carry a company decal/logo or to include distributor advertising.

6) Other

a. Describe any government rebate programs applicable.

Caterpillar Response

No specific governmental rebate programs are currently available.

B. Price Proposal

1) Provide a Price Proposal. Submit the Price Proposal as a separate and clearly identified document. The Price Proposal shall minimally include the following: Offerors shall submit pricing based on the Equipment, Product Requirements and Service Requirement categories identified on the Scope of Services. Pricing should be based upon a verifiable pricing structure, such as a fixed percent discount from an index or indices or established price list, etc. Where applicable, Offerors shall provide pricing for all product and services offered. Describe how pricing is determined for a base model equipment purchase and how pricing is determined for options, accessories and services. Identify the price list being used and include an electronic copy (or website link) so that net prices can be determined.

The price proposal should include pricing for equipment, accessories and options, parts, service and any additional value-add goods or services available such as financing, rental and used equipment for purchase from the vendor. Vendors must indicate if discounts are based on manufacturer price lists or dealer price lists.

In order to allow ordering flexibility for equipment that is mounted to a chassis, Offerors should provide a separate pricing structure for each the chassis and the truck, in addition to a total pricing structure for the complete piece of equipment.

Caterpillar Response

Each Caterpillar machine model will be assigned specific discount off the manufacturer's published list price for that particular machine and or piece of equipment. This discount will be extended to all additional options from the machine / option price list that are requested by the customer and become part of the final machine configuration. The published list price for the base machine and/or any additional options included in the published machine / option price list will be considered the maximum price for the specific final machine configuration. The associated discount will be considered the minimum discount that the local supporting Dealer has agreed to honor. It is our intention to provide the contract administrator with the City of Tucson with password protected access to our price lists housed on a secure internet platform. This ensures price lists will always be up to date.

Any additional items above and beyond those included in the Caterpillar Price Lists such as prep, extended warranties, delivery costs, customer service agreements, pre-delivery and installation, will be priced at the supporting Cat Dealer's discretion.

Financing for new and used Caterpillar products is available through a variety of financial products including Installment Sales Contracts, Finance Lease and Off Balance Sheet Operating Lease contracts. Rates and terms will be determined locally.

In an effort to provide even more customer solutions, Caterpillar will be supporting a special Used Equipment program for customers that choose to purchase products using this contract. With the exception of Cat work tools, Caterpillar will be extending a 20% discount off the original list price of used Caterpillar equipment that is currently in the Dealer's rental fleet that the Dealer agrees to sell. At their discretion, Dealers will have the ability to extend this program to customers for the purchase of work tools. Please note that this used program is subject to availability.

Parts, service work and rental is also available through this contract. There is no national price list for these options and as such prices will be determined locally based on volume of purchases and prevailing rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

2) Based on your distribution network, explain how freight is calculated.

Caterpillar Response

The freight and delivery costs vary by product and will be quoted separately. Our products are manufactured in locations around the globe and vary considerably in size and weight so costs to transport our products to the selling dealer will vary widely.

If the customer chooses to have the Dealer deliver those machines to the purchaser's location the cost would be calculated based on the distance from the Dealer's place of business. The Dealer will quote actual shipping and prep costs for each machine quoted through this contract.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

3) The discount structure provided by the supplier is intended to remain constant throughout the term of the Contact. Discuss how often price lists are updated and provide a listing of price list changes that have taken place over the last 3 years. Discuss any known future price list changes or industry changes that will effect pricing over the next 5 years.

Caterpillar Response

CONFIDENTIAL – Request confidential treatment –

Several factors will come into play when looking at possible price adjustments. Given that our machines and their components are largely made up of a variety of metals, commodity prices will have a significant impact on how pricing is adjusted moving forward. Combined with the fluctuation in fuel cost, rubber prices as well as the cost associated to the development of technologies associated to meeting emissions regulations, we expect the prices of heavy equipment to continue to rise. With this uncertainty, Caterpillar is asking that the most current published pricing, Caterpillar's suggested Consumer Price List, be that which is used in the quotation of equipment for this contract by the supporting Dealers. Failure to do so may limit Caterpillar's ability to commit to the pricing terms as outlined in this solicitation.

Typically, price changes go into effect on the first business day of the calendar year. However, Caterpillar reserves the right to adjust prices up or down as needed with an understanding that price changes may impact purchase intentions.

In a rare situation where Caterpillar determines a need to make price list corrections/reductions we reserve the right to adjust discount structures as long as that discount change is not detrimental to the customer.

With more than 300 products, Caterpillar introduces new products and removes outdated products periodically throughout the year. Caterpillar will provide the City of Tucson an updated equipment list and discount structure when these changes take place.

Past and Future Price Increases

JAN2014:	0 to 3%	plus 0 to 5% if emissions related, and -14% on WHEX
JAN2015:	-2 to 4%	plus 0 to 4% emissions related
JAN2016:	-4 to 4%	plus 3% emissions on D6K, 815 and 816
JUL2016	0 to 2%	some paving equipment only
JAN2017:	0 to 4 %	

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

4) State if pricing is most favorable offered to government agencies. Describe how your firm will ensure this contract will continually offer the best pricing available to Participating Public Agencies.

Caterpillar Response

Dealers are independent businesses and Caterpillar does not dictate pricing. It is the intent that with the "Maximum Price / Minimum Discount" model, that all Dealers will have the flexibility to extend the lowest competitive price to the agencies who choose to use the contract. Manufacturer's incentives may be periodically provided and may be regionally based.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

5) Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

Caterpillar Response

No additional volume rebate program is included in this proposal, however customers and their local Dealer may enter into agreement for additional discounts and or other value added provisions within the spirit of the "Maximum Price / Minimum Discount" model for volume purchases that are in line and conform to all the terms and conditions covered by the contract.

6) Provide information on any ordering methods – such as electronic ordering or payment via pCard or EFT – or other criteria which entitle the using agency to additional discounts.

Caterpillar Response

None available at this time.

7) As stated in the Instructions to Offerors, 7. Discounts, the price(s) herein can be discounted by _0_ %, if payment is made within 0 days. These payment terms shall apply to all purchases and to all payment methods.

8) Will payment be accepted via commercial credit card?__Yes _X*_No

a. If yes, can commercial payment(s) be made online? __Yes ___No
b. Will a third party be processing the commercial credit card payment(s)? __Yes __No
c. If yes, indicate the flat fee per transaction $____(as allowable, per Section 5.2.E of Visa Operating Regulations).
d. If "no" to above, will consideration be given to accept the card? _X*_Yes __No

Caterpillar Response

*Commercial Credit Card acceptance (online or in person) is in the Dealer's discretion. Not all dealers will accept payment by credit card. Limits and conditions may be imposed by the local Dealer.

Dealers, either independently or in conjunction with Cat Financial may offer lines of credit to governmental purchasers.

9) Does your firm have a City of Tucson Business License? _X_Yes _X__ No

a. If yes, please provide a copy of your City of Tucson Business license.

Caterpillar Response

Caterpillar is proud to have a large presence in the City of Tucson as we recently relocated a major division with 600+ employees to the city. However, that office conducts no retail business and as such does not hold a business license. Please refer to supplemental documents which includes email confirmation from City of Tucson taxing authorities.

The local Dealer, Empire Machinery, has a City of Tucson Business license.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

C. Qualifications & Experience

1) Provide a brief history and description of your company. Describe your market position in the local government, educational and medical market spaces.

Caterpillar Response

For more than 90 years, Caterpillar has been making sustainable progress possible and driving positive change on every continent. Customers turn to Caterpillar to help them develop infrastructure, energy and natural resource assets. With 2015 sales and revenues of $47 billion, Caterpillar is the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. The company principally operates through its three product segments - Construction Industries, Resource Industries and Energy & Transportation - and also provides financing and related services through its Financial Products segment. The Caterpillar Dealer organization has been a key component of Caterpillar's success. Caterpillar subscribes to the philosophy we need our dealers, and our customers to be

successful, in order for us to continue to grow profitably. It's a symbiotic relationship where all benefit when all grow together. This success is evident in the fact that many of our dealer s have been owned by the same family for multiple generations.

Caterpillar is a leader in the heavy equipment business. This leadership also extends to sales to governmental agencies.

One of the largest factors for Caterpillar's continued success is that our customers have realized that they get the best overall value when they purchase Caterpillar. When considering the total cost of ownership, it's important to include the following factors. For any specific product, the Dealer would be able to provide detailed information tailored to the local market.

- Operating costs (include fuel burn, a key trait for which Caterpillar is broadly considered most efficient)
- Maintenance costs
- Repair costs
- Safety design and performance
- Productivity
- Ease of operation
- Reliability
- Resale value

2) Describe your dealer network and their role in providing products and services under this contract.

Caterpillar Response

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance, payment receipt and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective territories.

Specific information about dealers is located on
http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealer network currently employs over 46,000 total employees. 5,500 of these employees are dedicated to machine sales. Many dealers have enough opportunity in the governmental market to employ sales people whose careers are dedicated to and specialized in the governmental industry. Approximately 70% of dealer employees are dedicated to product support. The Cat dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

3) Provide a listing of key personnel who will be assigned to the City's contract. Include their title within your organization and the description of the type of work they may perform. Please identify an executive corporate sponsor who will be responsible for the overall management of the awarded Master Agreement.

Caterpillar Response

Nationally, the contract will be managed by:

Patty Redpath
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory for specific contacts for the City of Tucson.

4) Summarize your experience in providing equipment, products and services similar to that outlined in the Scope of Work. Provide a minimum of three references for which you have provided similar products and services. References from other public agencies, particularly municipal governments, are preferred. Please include company name, address, phone, email, and contact person.

Caterpillar Response

For the last 90 years, Caterpillar's principal line of business has been the manufacture, sales and support of construction equipment. Throughout our history we have worked in close consort with our authorized dealers and that successful model has not substantially changed since its inception.

We have many satisfied customers in public agencies and refer you to Empire Machinery's response for three local agencies who are pleased with their support.

It is also important to reference the working partnership between Caterpillar, Empire Machinery, City of Tucson and National IPA for the past five years. The performance under contract #120377 is evidence of a strong and successful relationship. It is our desire to maintain this high level of cooperation as we move forward under this new RFP. We are deeply appreciative of the confidence placed in our machines and service and we value your business. We will do everything possible to maintain your trust as we look to forward to mutually beneficial contract going forward.

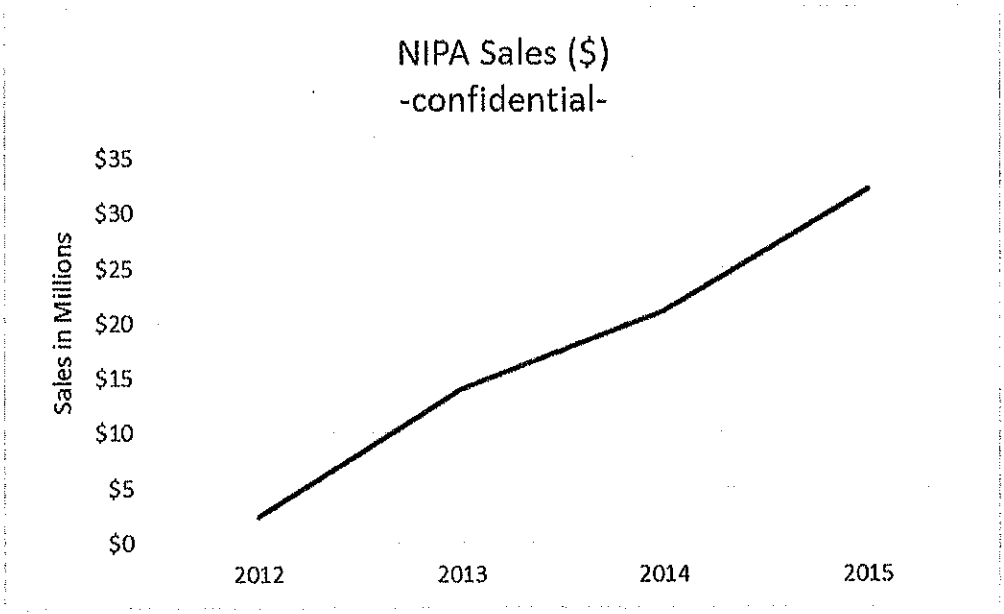
Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory for local customer references.

5) Please submit any additional information that you feel is applicable to your qualifications and experience.

Caterpillar Response (Only)

- CONFIDENTIAL – Request confidential treatment –

Our success with the National IPA partnership has been outstanding. Our internal sales support staff as well as our dealers embrace the concept and fully understand how to use the program. Our results since signing the contract in 2012 have been impressive as the chart below demonstrates:



Please also refer to vendor's response section 2015 Year In Review

6) Provide the qualifications of technicians that will be servicing equipment throughout the nation.

Caterpillar Response

All Dealers employ highly trained and experienced technicians that have completed numerous factory training programs. Each dealer can expound on their own specific requirements but overall our technician capability is excellent.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer service territory.

7) Describe your quality control program including but not limited to: what is your quality control procedures, who performs the quality control inspection? What are the qualifications of the inspectors? What items are inspected / tested? Etc.

Caterpillar Response

Quality levels are at the highest in company history. In 2013, Caterpillar implemented Lean methodology. Lean is built on a strong foundation of 6 Sigma and Caterpillar Production Systems (CPS). Lean is how Caterpillar eliminates waste and drives efficiencies. By standing up quality gates throughout the production processes, Caterpillar can stop defects – first by catching them at the quality gates, and then by eliminating them. Lean has been deployed at more than 94 production facilities throughout the enterprise.

In the production facilities, qualified technicians perform a battery of tests to ensure that the products leaving Caterpillar plants are operating to the outlined specifications before delivery to the customer. These tests cover the electronic system, hydraulic systems, and powertrain systems on every machine we build. In addition to static testing procedures, trained operators perform a series of road tests and simulated operational maneuvers in dedicated locations at the plant prior to shipment. Should a machine exhibit any functional issues or fail a quality control benchmark at any point in the manufacturing process, the production line will either be shut down to remedy the issue or the machine will be removed completely from the production line. The unit will then be assigned a specific troubleshooting cell to perform the necessary corrections or repairs at which point it will be re-subjected to the battery of tests until such time it meets Caterpillar's quality control standards.

Upon arrival at a dealership a detailed pre-delivery inspection will be performed. Deviations from expected condition or operational performance will be noted, reported and corrected before delivery. It is also recommended for the customer to inspect the machine prior to first use.

National IPA Exhibit A – National IPA Response for National Cooperative Contract

3. SUPPLIER QUALIFICATIONS

Supplier must supply the following information in order for the Principal Procurement Agency to determine Supplier's qualifications to extend the resulting Master Agreement to Participating Public Agencies through National IPA.

3.1 Company

A. Brief history and description of your company.

For more than 90 years, Caterpillar has been making sustainable progress possible and driving positive change on every continent. Customers turn to Caterpillar to help them develop infrastructure, energy and natural resource assets. With 2015 sales and revenues of $47 billion, Caterpillar is the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. The company principally operates through its three product segments - Construction Industries, Resource Industries and Energy & Transportation - and also provides financing and related services through its Financial Products segment. The Caterpillar Dealer organization has been a key component of Caterpillar's success. Caterpillar subscribes to the philosophy that there are three main partners in our business – Caterpillar, Cat dealers and customers. All three elements must be successful individually for all three to be successful over the long term. It's a symbiotic relationship where all benefit when they all grow together. This success is evident in the fact that many of our dealers are owned by multiple generations of the same family and multiple generations of customers continue to purchase products and services.

B. Total number and location of sales persons employed by your company.

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective service territories. Specific information about dealers is located on http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealers currently employ more than 46,000 total employees. 5,500 of these employees are dedicated to machine sales and many dealers have sales persons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to product support. The dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

C. Number and location of support centers (if applicable).

Caterpillar products are sold and supported by our authorized dealer network of 49 dealers in the US and 4 in Canada. These dealers are established, independent businesses that understand well the needs of their local customers and communities. These dealers typically have the majority of parts on-hand and the national average for 24-hour availability is 99%. In addition, Caterpillar maintains 10 parts distribution warehouses throughout the country to ensure that almost all parts can reach a customer within 24-48 hours.

In North America Caterpillar has 15 Product Distribution Centers (PDCs), which stock Cat machines in inventory to help supply equipment for our customers' needs/demands. The current estimated dollar value of machines in Caterpillar PDCs are estimated at more than $400M. Cat Dealers across North America also carry Cat machines in their inventory for immediate sale. The number and the type of machines in our dealer inventory will vary based on local demand and desired configurations.

Each Cat dealer operates in multiple branch locations and uses parts drop boxes and mobile service trucks.

Product support and parts availability are the hallmarks of Caterpillar's success and we take great pride in leading the industry in availability. Subsection d below expands on some of these capabilities.

Image 1, Caterpillar Dealer Brach Operations

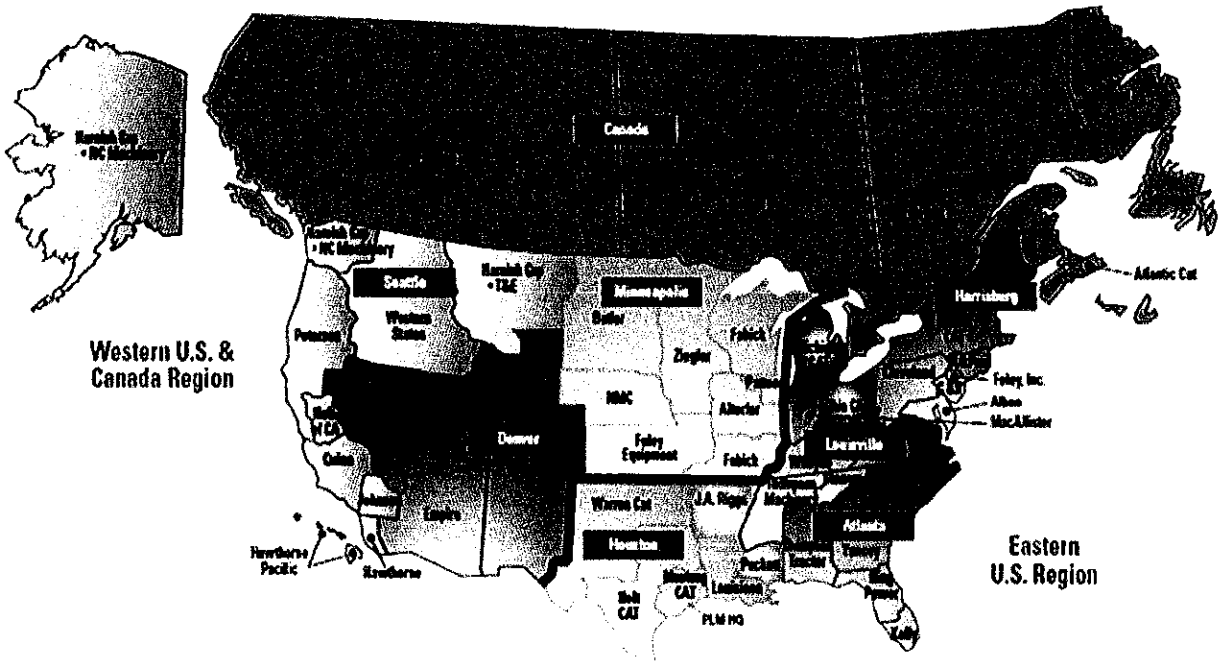


Image 2, Caterpillar North American Dealer Territories

D. Annual sales for the three previous fiscal years.

2013 – $55.6B
2014 – $55.1B
2015 - $47.0B

E. Submit your FEIN and Dunn & Bradstreet report.

Caterpillar's Employee Identification Number is 37-0602744

Please refer to vendor's response section Dunn & Bradstreet

3.2 Distribution, Logistics

A. Describe how your company proposes to distribute the products/service nationwide.

Caterpillar products and services are distributed principally through a worldwide network of independent dealers (dealer network), which includes 49 located in the United States, and 4 in Canada.

See Image 2, above.

B. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.

All North American dealers and or their subsidiaries process, handle or ship the products / services to end users. Outside companies are used to transport equipment, but do not assume ownership.

C. Provide the number, size and location of your company's distribution facilities, warehouses and retail network as applicable.

Caterpillar operates parts distribution centers in the following locations: Morton, Illinois; Arvin, California; Denver, Colorado; Miami, Florida; Atlanta, Georgia; St. Paul, Minnesota; Clayton, Ohio; York, Pennsylvania; Waco, Texas; Spokane, Washington; Melbourne, Australia; Queensland, Australia; Grimbergen, Belgium; Piracicaba, Brazil; Shanghai, China; San Luis Potosi, Mexico; Singapore, Republic of Singapore; Moscow, Russia; Johannesburg, South Africa, and Dubai, United Arab Emirates. We also own or lease other facilities that support our distribution activities.

Our current principal manufacturing facilities include those used by the following segments in the following locations:

Segment	U.S. Facilities	Facilities Outside the U.S.
Construction Industries	**Arkansas:** North Little Rock **Illinois:** Aurora, Decatur, East Peoria **North Carolina:** Clayton, Sanford **Texas:** Victoria **Georgia:** Athens	**Belgium:** Gosselies **Brazil:** Campo Largo, Piracicaba **China:** Suzhou, Wujiang, Xuzhou, Qingzhou **France:** Grenoble, Echirolles **Hungary:** Godollo **India:** Thiruvallar **Indonesia:** Jakarta **Japan:** Akashi, Sagamihara **Poland:** Janow, Sosnowiec **Russia:** Tosno, Novosibirsk **United Kingdom:** Desford, Stockton **Thailand:** Rayong

Resource Industries	**Illinois:** Aurora, Decatur, East Peoria, Joliet **North Carolina:** Winston-Salem **Pennsylvania:** Houston **South Carolina:** Sumter **Tennessee:** Dyersburg **Texas:** Denison **Wisconsin:** South Milwaukee	**Australia:** Beresfield, Burnie **China:** Langfang, Tongzhou, Wuxi, Zhengzhou **Czech Republic:** Ostrava **France:** Arras **Germany:** Dortmund, Lunen **India:** Hosur, Thiruvallur **Indonesia:** Batam **Italy:** Jesi **Japan:** Sagamihara **Mexico:** Acuna, Monterrey, Reynosa, Torreon **Russia:** Tosno **Thailand:** Rayong **United Kingdom:** Peterlee
Energy & Transportation	**Alabama:** Albertville, Montgomery **California:** San Diego **Georgia:** Griffin **Illinois:** LaGrange, Mossville, Mapleton, Pontiac **Indiana:** Lafayette, Muncie **Kentucky:** Decoursey, Louisville, Mayfield **South Carolina:** Newberry **Texas:** Channelview, De Soto, Mabank, San Antonio, Schertz, Seguin, Sherman	**Australia:** Revesby **Belgium:** Gosselies **Brazil:** Curitiba, Hortolandia, Piracicaba, Sete Lagoas **China:** Tianjin, Wuxi **Czech Republic:** Zatec **Germany:** Kiel, Mannheim, Rostock **India:** Hosur, Aurangabad **Mexico:** San Luis Potosi, Tijuana **Republic of Singapore:** Singapore **Sweden:** Ockero Islands **Switzerland:** Riazzino **United Kingdom:** Larne, Monkstown, Peterborough, Sandiacre, Shoreham, South Queensferry, Springvale, Stafford, Wimborne

D. State any return and restocking policy and fees, if applicable, associated with returns.

N/A

E. Describe the full line of products and services offered by your company.

Caterpillar is the world's leading manufacturing of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. Caterpillar also provides financing and related services through its Financial Products division.

All products sold by Caterpillar through its dealer network in the United States are included in this proposal. The product lines most relevant to this solicitation included but not limited to:

Construction & Paving Equipment
Articulated Dump Trucks
Asphalt Cold Planers
Asphalt Rotary Mixer
Dozers / Tracked
Dozers / Wheeled
Excavators / Tracked
Excavators / Wheeled
Loaders / Tracked
Loaders / Wheeled
Motor Graders
Paver / Tracked
Paver / Wheeled
Asphalt Compactors - Vibratory
Asphalt Compactors – Pneumatic
Scrapers
Skid Steer Loaders / Wheeled
Compact Track Loaders
Multi-Terrain Loaders
Skip Loaders
Soil Compactors
Telehandlers

Landfill Equipment
Landfill Dozers
Landfill Compactors
Landfill Scrapers

Work Tools (requires host machine)
Buckets
Augers
Thumbs
Hammers
Trenchers
Couplers

Generators & Power Systems
Gas and Diesel Engines
20kW to 16 mW Single Engines
Prime Power
Cogeneration

Additionally, Dealers often carry lines of complementary products not manufactured or marketed by Caterpillar that can be sold as allied machines. With this in mind, most of the products listed in this RFP can be provided either through Cat dealers as a branded Caterpillar product, or as allied equipment.

In addition to the new machines and power systems mentioned above, Caterpillar dealers also offer a complete line of OEM repair parts, work tools and attachments that are included in our offer.

Services such as repairs, rebuilds, maintenance, financing, extended protection plans, training, consulting, remote monitoring and more are offered by all Cat dealers and also included under this contract.

The purchasing of used equipment and the renting of equipment is included under this contract and sale/rental prices will follow the same maximum price minimum discount method as purchasing new equipment off this contract. This ensures when purchasing/renting these types of machines they are competitively priced based on like machines in the market place.

Additional services and other lines of equipment may be available depending on local dealer capabilities.

For the purposes of calculating the administrative fees associated with cooperative purchasing, only new Cat equipment sales will qualify as it is impossible for Caterpillar to track and measure sales of parts, service, used, rental, and allied equipment.

3.3 Marketing and Sales

A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as your company's primary go to market strategy for Public Agencies to your teams nationwide, to include, but not limited to:

i. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days.
Agree.

ii. Training and education of your national sales force with participation from the executive leadership of your company, along with the National IPA team within first 90 days

Should Caterpillar be awarded the contract a formal announcement of the award will be made to Caterpillar's field force and Caterpillar's dealer network. We anticipate this first communication to take place within the first 30 days of final award.

Since the roll-out of the City of Tucson National IPA contract in 2012, Caterpillar and Dealers continue to discover the value in selling machines from a cooperative contract that has a lead agency with a strong nationally recognized procurement department attached to a nationally recognized municipality such as the City of Tucson. This combined with a single source award makes this a very attractive contract to support the needs of end users nationwide.

We will continue to aggressively market the Master Agreement and continue ongoing sales training. The growth rate from the previous contract has been impressive and we have every reason to believe that the trend will continue.

B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Pubic Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:

i. Creation and distribution of a co-branded press release to trade publications
Agreed.

ii. Announcement, contract details and contact information published on the Supplier company website within first 90 days
Agreed.

iii. Design, publication and distribution of co-branded marketing materials within first 90 days
Agreed.

iv. Commitment to attendance and participation with National IPA at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement
Agreed as calendars and budgets allow.

v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by National IPA for partner suppliers. Booth space will be purchased and staffed by your company. In addition, you commit to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by National IPA.
Agreed as calendars and budgets allow.

vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement
Agreed as budgets allow.

vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)
Agreed.

viii. Dedicated National IPA internet web-based homepage on Supplier website with:
- National IPA standard logo;
- Copy of original Request for Proposal;

- Copy of contract and amendments between Principal Procurement Agency and Supplier;
- Summary of Products and pricing;
- Marketing Materials
- Electronic link to National IPA's website including the online registration page;
- A dedicated toll free number and email address for National IPA

Caterpillar internet standards will not allow a dedicated page on our website, however we will be able to make the information above accessible to customers and dealers. We strongly believe that directing customers to the National IPA webpage has an advantage over reproducing the information on our own site. Seeing the breadth and scope of additional contracts adds to the overall credibility of the concept.

Caterpillar has been very successful promoting the National IPA contract since it was first awarded. We intend to continue this promotion strategy. We will continue to work closely with the National IPA account manager and marketing teams to be certain we are working well together to pursue our mutual goal of growing contract sales.

While our marketing budget may prohibit executing some of the activities mentioned above, it is our intention to comply with the spirit of the section.

Additionally, many of our dealers have public websites that provide similar information to the market. The following is an example of Empire Machinery's web link:

http://www.empire-cat.com/cooperativepurchasing/?terms=city%20of%20Tucson

C. Describe how your company will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through National IPA. Include a list of current cooperative contracts (regional and national) your company holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

Since roll-out of the City of Tucson National IPA contract in 2012, Caterpillar and Cat dealers continue to discover the value in selling machines from a cooperative contract that has a lead agency with a strong nationally recognized procurement department attached to a nationally recognized municipality such as the City of Tucson. This combined with a single source award makes this a very attractive contract to support the needs of our customers nationwide.

Caterpillar will encourage dealers and customers to embrace cooperative purchasing and we will ensure that there are no corporate roadblocks to adoption. However, ultimately, the decision to use contracts lies with the public agency itself. Therefore, transitions to the contract will take place at the pace that agencies feel comfortable.

Caterpillar presently holds two cooperative contracts. Those contracts are NJPA Heavy Equipment Contract #032515 and NJPA Alternative Energy / Generators Contract #080613. Caterpillar, through Caterpillar's Defense and Federal Products business unit, currently holds GSA contract #GS30F0018U.

For the purpose of this proposal, Caterpillar's NJPA Heavy Equipment Contract #032515 provides the same product offering and discount structure as is being submitted in this proposal.

D. Acknowledge that your company agrees to provide its company/corporate logo(s) to National IPA and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of National IPA logo will require permission for reproduction, as well.

Per corporate brand and legal guidelines, Caterpillar company logos can be used by National IPA pursuant to existing contract.

Caterpillar will request proper permission to use the National IPA logo as well.

E. Supplier is responsible for proactive direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by National IPA. All sales materials are to use the National IPA logo. At a minimum, the Supplier's sales initiatives should communicate:
   i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
   ii. Best government pricing
   iii. No cost to participate
   iv. Non-exclusive contract

   Should Caterpillar be awarded the contract, Caterpillar ensures that training and marketing materials associated to the Master Agreement will clearly communicate the advantages of the National IPA agreement.

F. Supplier is responsible for the training of its national sales force on the Master Agreement. At a minimum, sales training should include:
   i. Key features of Master Agreement
   ii. Working knowledge of the solicitation process
   iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through National IPA
   iv. Knowledge of benefits of the use of cooperative contracts

   Should Caterpillar be awarded the contract, Caterpillar will ensure that training and marketing materials associated with the Master Agreement will continue as described above.

G. Provide contact information for the person(s), who will be responsible for:
   i. Marketing
   ii. Sales
   iii. Sales Support
   iv. Financial Reporting
   v. Contracts

   Patty Redpath
   Governmental Sales
   100 NE Adams St, Peoria, IL 61629
   Office: 309-494-4578
   Redpath_Patty@cat.com

H. Describe in detail how your company's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

   Caterpillar's North American field force is divided into eight districts including Canada. Each district has marketing representatives that are responsible for working with assigned dealers within their service territory. The eight districts are divided into a Western Region and an Eastern Region. Both a Western Region Manager and an Eastern Region Manager report to Brian Foster who serves as the Industry Sales Manager for Americas North.

   Brian Foster
   Americas North Sales Manager
   309-675-5181
   FOSTER_BRIAN_V@cat.com

I. Explain in detail how the sales teams will work with the National IPA team to implement, grow and service the national program.

   Through our governmental specialists and the contract manager, Caterpillar will develop training materials along with marketing initiatives specific to the cooperative purchasing model to ensure that dealers are equipped with the necessary tools to present the message to the customer with confidence.

   Cat dealer sales representatives have developed relationships with the National IPA sales representatives. As these relationships continue to grow, the results can be expected to grow as well.

J. Explain in detail how your organization will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set- up, etc.

   The contract manager will be the single point of contact for any issues related to supporting, maintaining, and promoting the contract. It will be up to each individual

dealer to identify those customers that would benefit from the program's use and will promote it accordingly.

K. State the amount of your company's Public Agency sales for the previous fiscal year. Provide a list of your top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

- CONFIDENTIAL – Request confidential treatment –

Caterpillar's governmental sales in 2015 were $900M+ from 5,000+ units.

Customers who purchase Caterpillar equipment are ultimately the customers of the local Dealers who serve them. As such Caterpillar does not have all the contact information for customers requested here. Caterpillar also regards all customer transaction information as confidential and reserves the right to withhold such information.

L. Describe your company's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

Caterpillar receives orders and payments from dealers. The equipment then becomes part of a dealer's inventory until sold to a customer. When a public agency decides to purchase a machine through this master contract, Caterpillar will offer additional support to the dealer via our post-sale credit system. The dealer will be required to submit the agency's name, address, member number and purchase amount. Caterpillar has no way to track sales of parts, service, used machines or rentals.

M. Provide the Contract Sales (as defined in Section 10 of the National Intergovernmental Purchasing Alliance Company Administration Agreement) that your company will guarantee each year under the Master Agreement for the initial three years of the Master Agreement ("Guaranteed Contract Sales").

$ .00 in year one
$ .00 in year two
$ .00 in year three

To the extent Supplier guarantees minimum Contract Sales, the administration fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.

Caterpillar will not guarantee a minimum number of sales. Dealers and customers have high level of awareness about the contract. Sales should continue to grow as a result of their satisfaction with the process.

N. Even though it is anticipated that many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.

i. Respond with Master Agreement pricing (Contract Sales reported to National IPA).

ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to National IPA under the Master Agreement.

iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to National IPA).

iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail your strategies under these options when responding to a solicitation.

Caterpillar will report sales to National IPA when a customer has requested that the sale take place via the contract. In any other situation Caterpillar will consider the sale a non-contract sale and will not be responsible for any fees.

CATERPILLAR®

Caterpillar Inc.
100 NE Adams Street
Peoria, IL 61629

November 14, 2016

Jeffrey Whiting
Contract Officer
City of Tucson
255 W. Alameda, 6th Floor
Tucson, AZ 85701

Dear Mr. Whiting:

We are very pleased to submit Caterpillar Inc.'s proposal in response to RFP #161534. The attached document outlines our proposed exceptions to the RFP.

With more than 90 years of experience, Caterpillar has the in-depth knowledge and experience to undertake this initiative on behalf of the City of Tucson and complete it effectively. We, along with our dealer, Empire Machinery, appreciate the trust you've placed in us through your past purchases and we hope to continue this valued relationship.

We would be pleased to answer any questions you might have regarding our proposal. Thank you for the opportunity to submit these exceptions for your consideration.

Sincerely,

Ann Schreifels
Governmental Sales Manager
Schreifels_ann_m@cat.com
309-266-0471

Caterpillar Inc. Exceptions

SCOPE OF WORK

A. GENERAL REQUIREMENTS

5. **TRAINING:** The Contractor shall provide, at no additional cost, training for each basic unit of equipment purchased. This training shall be adequate to the needs of the typical equipment operator and service technician in order to assure proper operation, utilization and maintenance of the equipment supplied. Any manuals necessary to perform the required training shall be furnished by the Contractor. The trainer shall be factory-trained and thoroughly knowledgeable in equipment operator and service technician functions. Dealer may present the ~~T~~training material ~~shall be presented~~ in a quality suitable for videotaping. Dealer and Contractor~~The City~~ reserves the right to allow or reject videotapinge part or all of the training provided at no additional cost to the agency.

6. REPAIRS. The Contractor will be responsible for transport of vehicles to and from his place of business for repairs, at no additional cost to the City, until such time as the City of Tucson places the vehicle in first service. Transport of the vehicle will not be delayed more than one working day from date of notification.

B. EQUIPMENT AND PRODUCT REQUIREMENTS:

3. **PRICING:** Offerors shall confidentially provide a verifiable pricing model that may include, but not be limited to, a discount from a verifiable price index, a reduced net pricing schedule, a hybrid or other supplier specific pricing model. The pricing model shall remain firm and will include all charges that may be incurred in fulfilling requirement(s) for the twelve-month period following contract award. Where applicable, pricing shall be determined by applying Offerors discounts to the prices listed on their manufacturer's price lists, retail price sheets, catalogs or by utilizing the reduced net pricing schedule.

C. SERVICE REQUIREMENTS

1. b. **Maintenance Services:** The ability to provide various maintenance services and options through authorized manufacturer's facilities or dealers. Maintenance services may include scheduled services based upon the manufactures recommended guidelines to include, but not be limited to, daily scheduled services, daily fuel dispensing, major/minor machine cleaning, etc. Maintenance services may also include mobile maintenance.

For landfill equipment, if the City has purchased the maintenance services from the manufacturer's dealer, the City requires loaner or rental equipment if the machine is down for more than 24 hours. City and Dealer will work together to determine the City's loaner equipment requirements and the cost to the city for loaner equipment. For the City of Tuscon see Empire Cat's response.~~If the equipment is down due to no fault of the City, the loaner shall be provided at no additional cost.~~

INSTRUCTIONS TO OFFERORS

10. EXCEPTIONS TO CONTRACT PROVISIONS: A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his or her designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or his or her designee, the City shall be deemed to have rejected the proposal or offer in part. The parties may agree to negotiate separate terms where the Director or his or her designee has not accepted a modification. ~~the contract provisions contained in the City's Request for Proposal shall prevail.~~

11. PUBLIC RECORD: All proposals submitted in response to this Request for Proposal shall become the property of the City and, subject to Section 12, shall become a matter of public record available for review subsequent to the award notification.

12. CONFIDENTIAL INFORMATION: The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. ~~Price is not confidential and will not be withheld.~~ If the confidential request is denied, such information shall be disclosed as public information, unless the Oefferor submits a formal written objection.

21. CITY OF TUCSON BUSINESS LICENSE: It is the responsibility of the applicable ~~Contractor~~ Dealer to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at http://www.tucsonaz.gov/etax. For questions contact the City's Business License Section at (520) 7914566 or email at tax-license@tucsonaz.gov.

SPECIAL TERMS AND CONDITIONS

2. **SUBCONTRACTORS:** As set forth herein, Contractor goes to market through a network of authorized dealers. As such, City and the Department of Procurement hereby agree that certain obligations of Contractor herein shall be fulfilled by such authorized dealers and references herein to "Contractor" or "Offeror" shall be deemed references to "Contractor or Dealer as appropriate" or "Offeror or Dealer as appropriate" unless otherwise specified herein.

   City and Contractor acknowledge that Contractor authorized dealers are independent businesses and as such (a) have the right to choose whether or not to accept the terms and conditions contained herein; and (b) have the right to establish their own specific resale prices and other terms and conditions of sale, none of which will be dictated by Contractor.

~~No subcontract shall be made by the contractor with any other party for furnishing any of the services herein contracted for without the advance written approval of the Department of Procurement.~~ All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. Contractor is responsible for contract performance whether or not subcontractors are used.

4. **INSURANCE:** ~~The Contractor agrees to:~~For purposes of this Section 4, all references to "Contractor" shall be deemed to be references to "Dealer" alone.

9. **MODIFICATION OF TERMS:** A Participating Agency who wishes to piggyback on this Contract may present alternate terms to the ~~Contractor~~applicable Dealer as a condition of their intended purchase transaction. If the ~~Contractor~~ Dealer chooses to accept the alternate terms, it shall be as a condition of the Participating Agency's purchase transaction and shall not constitute a modification of this contract.

STANDARD TERMS AND CONDITIONS

20. **INDEMNIFICATION**: To the fullest extent permitted by law, Contractor, ~~its successors, assigns and guarantors,~~ shall pay, defend, indemnify and hold harmless the City of Tucson, its agents, representatives, officers, directors, officials and employees ("Indemnitees") from and against all allegations, demands, proceedings, suits, actions, claims, ~~including claims of patent or copyright infringement,~~ damages, losses, reasonable expenses, including but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, incurred or sustained by an Indemnitee and related to (i) injury to or death of, or property damage sustained by, any natural person who is an Indemnitee, or (ii) claims of patent or copyright infringement, to the extent caused by, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions of ~~caused in whole or part by~~ Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor retained by Contractor or anyone directly or indirectly employed by Contractor or such Subcontractor, and except to the extent that the injury to, death of, or property damage sustained by such person is attributable to the negligent acts or omissions or willful misconduct of the City or any of its affiliates or their respective employees, agents or subcontractors. ~~any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractors agrees to waive all rights of subrogation against the City of Tucson, it's agents, representatives, officers directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.~~

29. **PAYMENT:** It is the Dealer's discretion whether to accept credit card payments and under what circumstances it will accept credit card payments. It is noted t~~T~~he City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases and subject to the foregoing, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

38. **SUBCONTRACTS:** This Section 38 is made subject to the terms of Section 2 of the Special Terms and Conditions of this Contract. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

40. **TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by ~~the City~~any party, with or without cause, upon giving thirty (30) days written notice. ~~The City~~Any party, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, which failure the contractor has not commeneed to remedy within thirty days of receipt of notice of such failure. ~~T~~the City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the reasonable opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the reasonable opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the reasonable opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the reasonable opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will ~~endeavor to~~ notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

ATTACHMENT A

EXHIBIT A

1.2 Marketing, Sales and Administrative Support

Suppliers are required to pay an administrative fee pursuant to Section 10 of Exhibit B, Monthly Reporting & Fees attached to~~of 1.5% of the greater of the Contract Sales under the Master Agreement and Guaranteed Contract Sales under~~ this Request for Proposal. Supplier will be required to execute the National IPA Administration Agreement (refer to Exhibit B).

1.4 Award Basis

The basis of any contract award resulting from this RFP made by Principal Procurement Agency will be the basis of award on a national level through National IPA. If multiple suppliers are awarded by Principal Procurement Agency under the Master Agreement, those same suppliers will be required to extend the Master Agreement to Participating Public Agencies through National IPA. Utilization of the Master Agreement by Participating Public Agencies will be at the discretion of the individual Participating Public Agency. Certain terms of the Master Agreement specifically applicable to the Principal Procurement Agency are subject to modification for each Participating Public Agency as Supplier, such Participating Public Agency and National IPA shall agree. Participating Agencies may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (i.e. invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and woman owned businesses, historically underutilized business, governing law, etc.). Any supplemental agreement developed as a result of the Master Agreement is exclusively between the Participating Agency and ~~the Supplier~~local authorized dealer (Contract Sales are reported to National IPA).

EXHIBIT B

NATIONAL IPA COMPANY ADMINISTRATION AGREEMENT

TERM OF AGREEMENT

6. This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the provisions of paragraphs 3, 4 and 5 hereof and the indemnifications afforded by ~~the Supplier~~Dealer to National IPA herein and in the Master Agreement, to the extent such provision survive the term of the Master Agreement, shall survive the term of this Agreement.

MONTHLY REPORTING & FEES

10. Supplier shall pay National IPA an administrative fee in the amount of ~~—%~~1% of the total new machine purchase amount paid to Supplier, less refunds, credits on returns, rebates and discounts, for the sale of new machines to Principal Procurement Agency and Participating Public Agencies pursuant to the Master Agreement (as amended from time to time and including

any renewal thereof) ("Contract Sales"). Supplier shall provide National IPA with an electronic accounting report, in Microsoft Excel, in the format prescribed by National IPA, on a monthly basis summarizing all Contract Sales for the applicable month. A sample of the Contract Sales reporting format is provided as Exhibit C, attached hereto and incorporated herein by reference.

11. Reports of Contract Sales for Principal Procurement Agency and Participating Public Agencies in each calendar month shall be provided by Supplier to National IPA by the 10th day of the following month. On the 10th day of the month following the end of each quarter Supplier shall pay an ~~Such reports shall be accompanied by an~~ administrative fee ~~payment~~ in the amount indicated on the report as being due. Administrative fee payments are made for each calendar quarter. The administrative fee is~~are~~ to be paid by the Supplier to National IPA via Automated Clearing House (ACH) to the National IPA designated financial institution identified in Exhibit D. Failure to provide a monthly report or quarterly payment of the administrative fees within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Principal Procurement Agency's sole discretion, and/or this Agreement, at National IPA's sole discretion. All administrative fees not paid when due shall bear interest at a rate equal to the lesser of 1 1/2% per month or the maximum rate permitted by law until paid in full.

GENERAL PROVISIONS

15. This Agreement and National IPA's rights and obligations hereunder may be assigned at National IPA's sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform National IPA's obligations hereunder. Supplier may not assign its obligations hereunder without the prior written consent of National IPA; provided, however, National IPA understands the nature of Supplier's distribution network and that certain responsibilities may only be fulfilled by an authorized dealer. ~~.~~

November 14, 2016

Jeffrey Whiting
Department of Procurement
Contract Officer
255 W. Alameda, 6th Floor
Tucson, AZ 85701

RE: Request for Proposal Number 161534
Heavy Equipment, Parts, Accessories, Supplies and Related Services

On behalf of Caterpillar Inc. and Empire Machinery, we sincerely appreciate the opportunity to participate in RFP #161534 from the City of Tucson. We believe the current contract, #120377, is a very successful contract for all parties; City of Tucson, National IPA, National IPA Member Agencies, Caterpillar and CAT Dealers.

We believe Caterpillar's offer in RFP #161534, if awarded, has three major benefits to all parties that are currently utilizing Contract #120377.

One – Capitalizing On the Momentum of Contract #120377
Contract #120377 has grown more than 1700% since 2012, and has increased more than 50% every year through 2015.

Two – Caterpillar's Product Offering Far Exceeds Any Other Manufacturer
CAT offers 159 more individual machine models to the governmental market than our next closest competitor. The depth and breadth of these additional units represents three times more machines to service your needs, and results in potential multiples of higher revenue through the contract.

Three – CAT Dealers' Larger Infrastructure in Both Stores and People to Serving the US
Cat Dealers have the infrastructure in stores and people in numbers, greater than all our competitors combined. More and more CAT Dealer Sales Managers and Salespersons are discovering two major benefits of the City of Tucson/National IPA contract.

1. A nationally recognized municipality as the Lead Agency and,
2. A single award

When these features are presented, procurement staff and operating departments have much higher confidence and trust in the co-op bid process. U.S. Cat dealers continue to increase their presentations and visibility of the contract and thus secure the adoption by new and/or existing National IPA members. At Empire, we are experiencing an increased level of engagement, with our counterparts at other dealerships who are requesting our guidance and best practice suggestions- especially over the last 18 months as capital budgets have improved across the country.

The response will be separated into two sections. Section 3 and 4 is Cat only and Section 6 is a combined response, which will include the responses from both Caterpillar and Empire Machinery. This allows responses to be viewed together.

Caterpillar's response was prepared by Patty Redpath, Governmental Sales Account Manager based in Peoria, Illinois. Patty's response pertains to the scope of Caterpillar's responsibility, while remaining cognizant that each dealership and respective territory has their own business rules and local regulations. Caterpillar is not at liberty to make commitments in this response on behalf of all Cat dealers. Caterpillar's commitment is the pricing discount from their published list price on machines they manufacture. These will be available to every Caterpillar dealer in the United States in the event that a local agency requests to purchase from this contract, and that specific Caterpillar dealer agrees with both the pricing level offered and agrees to accept any additional terms the agency requires.

The dealer response is from Empire Machinery, referred to as "Dealer Response". Empire approached our submission as if we were preparing our proposal solely for the City of Tucson. Empire's business relationship with the City of Tucson is highly valued and is our primary focus. The Empire Machinery section should only be considered as a commitment of what Empire will provide the City of Tucson and other agencies in our Cat territory. If this submission provides particular value, it may be used in the NIPA marketing effort to potential agencies in understanding what a Caterpillar dealership is capable of, but in no way is meant to imply or represent that any other dealers can or will provide the exact scope or elements that Empire offers the City of Tucson.

In addition, Empire represents several products that Caterpillar does not manufacture, but were requested in the RFP. We refer to non-Caterpillar products at Empire as "Allied" products. These help enhance or complete the machines for applications our customers need. Additional information is included in the Empire section entitled "Allied Products".

Thank you for the opportunity to participate in this solicitation for the City of Tucson.

Sincerely,

Clinton Swapp
Sales Account Manager
520-240-8213
Clinton.Swapp@empire-cat.com

Mark McGee
Governmental Industry Manager
520-240-8292
Mark.McGee@empire-cat.com

PROPOSAL EVALUATION REQUIREMENTS

A. Method of Approach

1) National Program

a. Provide a response to the national program by including a detailed response to Attachment A, Exhibit A, National IPA Response for National Cooperative Contract. Provide any proposed exceptions to Attachment A, Exhibit B, National IPA Administration Agreement for the City's consideration.

Caterpillar Response

Caterpillar will be providing a response to RFP #161534 on behalf of Caterpillar and Participating Caterpillar's Dealer's in an effort to support the terms included herein on a national scale. Additionally, Caterpillar has asked the local authorized dealer, Empire Machinery, to provide supplemental responses to applicable questions specific to the manner in which they will be specifically supporting the contract for the City of Tucson. From a national standpoint, these supplemental responses should only be considered examples of the manner in which business may be conducted. The contract may be supported differently in jurisdictions other than those serviced by Empire Machinery.

Please also see our attached proposed exceptions.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire Machinery will be providing a response to RFP #161534 on behalf of Caterpillar's Dealer network in an effort to support the terms included herein on a national scale. Empire will provide supplemental responses to applicable questions specific to the manner in which Empire will be specifically supporting the contract for the City of Tucson. From a national standpoint, Empire's supplemental responses should only be considered examples of the manner in which business may be conducted. The contract may be supported differently in territories other than those serviced by Empire Machinery

2) Distribution Network

a. Describe how your firm proposes to distribute the equipment, accessories, parts, repair and services nationwide. Describe any parts the distribution network will have "on-hand" and those that must be ordered.

Caterpillar Response (only)

-Confidential-

Caterpillar products (equipment, accessories, parts, repair and services) are sold and supported through Caterpillar's authorized Dealer network. These Dealers are established, independent businesses that understand the needs of their local

customers and communities. Across North America, the majority of Caterpillar Dealers have supported the needs of their local customers and communities for decades.

In North America Caterpillar has 15 Product Distribution Centers (PDCs), which stock Cat machines in inventory to help supply equipment for our customers' needs/demands. The current estimated dollar value of machines in Caterpillar PDCs are estimated at more than $400M. Cat Dealers across North America also carry Cat machines in their inventory for immediate sale. The number and the type of machines in our dealer inventory will vary based on local demand and desired configurations.

Caterpillar maintains 10 parts distribution warehouses throughout North America to ensure that almost all parts can reach our dealers within 24-48 hours. In addition to the Caterpillar owned parts inventory, Cat dealers collectively stock over $1 Billion in protective parts inventory to minimize downtime for their customers. Currently the national average for 24-hour parts availability is at a 99% fill rate.

Product support and parts availability are the hallmarks of Caterpillar's success and we take great pride in leading the industry in availability.

Please refer to subsection d below which expands on some of these capabilities.

b. Identify all other companies/distributors/dealers that will be involved in processing, handling or shipping the products/services to Participating Public Agencies.

Caterpillar Response (only)

Caterpillar and Cat Dealers are the two principle parties involved in providing products/services to public agencies. In most cases, the Cat dealers have their own transport trucks and trailers capable of handling or shipping the products/services from the Caterpillar facilities to the Dealership location(s), as well as to the Participating Public Agencies. Both Caterpillar and the dealers may contract transport out to meet time deadlines, and/or to reduce cost for our customers.

The transport companies used by Caterpillar or Cat dealers must meet the strict requirements of our transportation plan. Additional details can be provided upon request.

c. Provide the number, size and location of your firm's manufacturing facilities, distribution facilities, warehouses, service facilities and dealer networks as applicable. State the estimated dollar value of your inventory. Include a map showing heavy equipment distribution network coverage nationwide.

Caterpillar Response (only)

Caterpillar operates parts distribution centers in the following locations: Morton, Illinois; Arvin, California; Denver, Colorado; Miami, Florida; Atlanta, Georgia; St. Paul, Minnesota; Clayton, Ohio; York, Pennsylvania; Waco, Texas; Spokane, Washington; Melbourne, Australia; Queensland, Australia; Grimbergen, Belgium;

Piracicaba, Brazil; Shanghai, China; San Luis Potosi, Mexico; Singapore, Republic of Singapore; Moscow, Russia; Johannesburg, South Africa, and Dubai, United Arab Emirates. We also own or lease other facilities that support our distribution activities.

Our current principal manufacturing facilities include those used by the following segments in the following locations:

CONSTRUCTION INDUSTRIES	
U.S. Facilities	Facilities Outside the U.S.
Arkansas: North Little Rock **Illinois:** Aurora, Decatur, East Peoria **North Carolina:** Clayton, Sanford **Texas:** Victoria **Georgia:** Athens	**Belgium:** Gosselies **Brazil:** Campo Largo, Piracicaba **China:** Suzhou, Wujiang Xuzhou, Qingzhou **France:** Grenoble, Echirolles **Hungary:** Godollo **India:** Thiruvallur **Indonesia:** Jakarta **Japan:** Akashi, Sagamihara **Poland:** Janow, Sosnowiec **Russia:** Tosno, Novosibirsk **United Kingdom:** Desford, Stockton **Thailand:** Rayong
RESOURCE INDUSTRIES	
Illinois: Aurora, Decatur, East Peoria, Joliet **North Carolina:** Winston-Salem **Pennsylvania:** Houston **South Carolina:** Sumter **Tennessee:** Dyersburg **Texas:** Dennison **Wisconsin:** South Milwaukee	**Australia:** Beresfield, Burnie **China:** Langfang, Tongzhou, Wuxi, Zhengzhou **Czech Republic:** Ostrava **France:** Arras **Germany:** Dortmund, Lunen **India:** Hosur, Thiruvallur **Indonesia:** Batam **Italy:** Jesi **Japan:** Sagamihara **Mexico:** Acuña, Monterrey, Reynosa, Torreon **Russia:** Tosno **Thailand:** Rayong **United Kingdom:** Peterlee
ENERGY & TRANSPORTATION	
Alabama: Albertville, Montgomery **California:** San Diego **Georgia:** Griffin **Illinois:** LaGrange, Mossville, Mapleton, Pontiac **Indiana:** Lafayette, Muncie **Kentucky:** Decoursey, Louisville, Mayfield **South Carolina:** Newberry **Texas:** Channelview, DeSoto, Mabank, San Antonio, Schertz, Seguin, Sherman	**Australia:** Revesby **Belgium:** Gosselies **Brazil:** Curitiba, Hortolandia, Piracicaba, Sete Lagoas **China:** Tianjin, Wuxi **Czech Republic:** Zatec **Germany:** Kiel, Mannheim, Rostock **India:** Hosur, Aurangabad **Mexico:** San Luis Potosi, Tijuana **Republic of Singapore:** Singapore **Sweden:** Ockero Islands **Switzerland:** Riazzino **United Kingdom:** Larne, Monkstown, Peterborough, Sandiacre, Shoreham, South Queensferry, Springvale, Stafford, Wimborne

Caterpillar inventory is stated at the lower of cost or market. Cost is principally determined using the last-in, first-out (LIFO) method. The value of inventory totaled $9.7B at December 31, 2015.

Information about the Cat dealer network is set forth in subsection 2.d. below.

d. Describe your dealer network and their role in providing products, services, etc. under this contract.

Caterpillar Response (only)

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective service territories. Specific information about dealers is located on http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealers currently employ more than 46,000 total employees. 5,500 of these employees are dedicated to machine sales and many dealers have sales persons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to product support. The dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

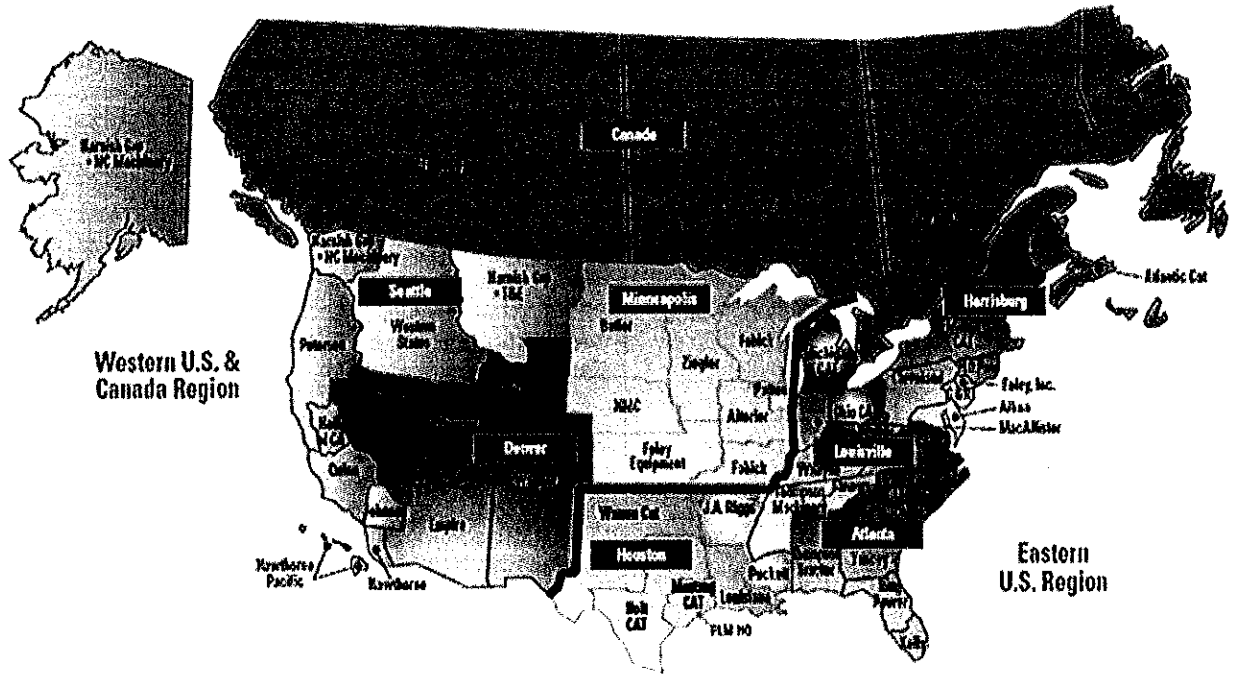


Image 1: North American Dealer Network

3) Product

a. Provide a detailed written response illustrating how the equipment, accessories, parts, supplies and related services offered will meet the requirements of this solicitation. Offerors shall identify and describe their heavy equipment categories. For each proposed category, describe in detail and provide at a minimum the following types of information:

1. Identification and description of equipment categories offered.

Caterpillar Response

Caterpillar is the world's leading manufacturing of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. Caterpillar also provides financing and related services through its Financial Products division.

All products sold by Caterpillar through its dealer network in the United States are included in this proposal. The product lines most relevant to this solicitation included but not limited to:

Construction & Paving Equipment
Articulated Dump Trucks
Asphalt Cold Planers
Asphalt Rotary Mixer
Dozers / Tracked
Dozers / Wheeled
Excavators / Tracked
Excavators / Wheeled
Loaders / Tracked
Loaders / Wheeled
Motor Graders
Paver / Tracked
Paver / Wheeled
Asphalt Compactors - Vibratory
Asphalt Compactors – Pneumatic
Scrapers
Skid Steer Loaders / Wheeled
Compact Track Loaders
Multi-Terrain Loaders
Skip Loaders
Soil Compactors
Telehandlers

Landfill Equipment
Landfill Dozers
Landfill Compactors
Landfill Scrapers

Work Tools (requires host machine)
Buckets
Augers
Thumbs
Hammers
Trenchers
Couplers

Generators & Power Systems
Gas and Diesel Engines
20kW to 16 mW Single Engines
Prime Power
Cogeneration

Please refer to supplemental proposal, Empire Machinery Products and Services subtitled "Allied Products" for additional non-Cat manufactured/ branded lines of equipment offered by Cat dealers for purchase under this contract.

Dealer Response

Empire Machinery represents the full line of Caterpillar equipment as described in Caterpillar's response. Cat Dealers also carry complementary products, that are non-CAT manufactured, that are available in this bid for purchase. These products are referred to as "Allied" products. Please see section 3) under Product, subsection 2. Identification and description of sub categories for a current list of Allied products.

2. Identification and description of sub categories.

Caterpillar Response

Each of the equipment categories above consists of several models of machines that vary by size, horsepower and productivity.

With more than 239 models of Construction and Governmental products offered (not including mining, power generation, and engines), and multiple application-specific configurations, Caterpillar will be able to support virtually any governmental equipment need. Caterpillar is the only manufacturer to offer this many distinct models of machines, configurations and attachments.

A complete current listing with specifications and details is maintained at:

http://www.cat.com/en_US/products/new/equipment.html

Recycling and Waste
Caterpillar is the only manufacturer to offer a full line of machines specifically designed to handle landfill and waste applications.

Specific information can be found on our website at:

http://www.cat.com/en_US/products/new/by-industry/waste.html

Construction Equipment
As the recognized global leader in construction equipment, Caterpillar has repeatedly demonstrated its expertise in helping governments and contractors worldwide continue to develop and maintain infrastructure. Caterpillar has the largest breadth of products to support these applications. Caterpillar continues to lead the industry in investing hundreds of millions of dollars each year in research and development. This ensures that what we sell is high performing, reliable, long lived products resulting in the best overall best value.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/construction.html

Technology & Solutions
Information and data are quickly becoming vital in heavy machine operation and maintenance. Caterpillar is at the forefront with the variety of solutions available to customers. Whether the goal is to track hours and location or to dive deep into operation and maintenance practices, Caterpillar has a technology solution to meet that need.

For more detailed information please visit:

http://www.cat.com/en_US/support/operations/technology.html

Paving
Road building and maintenance are core competencies of the paving division of Caterpillar. We build and support a wide-ranging product line that includes everything from compactors and pavers, to cold planers to road reclaimers.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/paving.html

Work Tools
In addition to machines, Caterpillar will also be offering its full line of work tools to add even more versatility to the host of Caterpillar machines. This will provide an even greater selection of solutions. Caterpillar currently is a leader in both sales and models offered with more than 1800 different work tool options currently available.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/attachments.html

Other/Miscellaneous/Allied
There are other product lines that don't fall neatly into the categories above. Should the City of Tucson have a need for them, they are included as part of this contract and can be offered for sale by Dealers.

Additionally, Dealers often carry lines of complementary products not manufactured or marketed by Caterpillar that can be sold under this contract as allied machines. With this in mind, most of the products listed

in this RFP can be provided either through Dealers as a branded Caterpillar product, or as allied equipment.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Allied products include but are not limited to:

Construction and Mining	On Road Industrial
Allmand (Light Towers) Broce Brooms JLG (Man lifts) Mega (Water tanks, Towers and Trailers) Genie (Man lifts and Telehandlers) Progressive Solar (Solar Power Light Plants) Multiquip Power Sullair Air Compressors Rockland (Buckets and Dozer Blades) Paladin (Couplers and Attachments) CE Attachments (Attachments) Dymax (Attachments) Weiler Paving Products (Pavers, Tack Truck & Trailers, Wideners) Wain-Roy	Fuso Trucks Mac Trailers Maintainer (Service Bodies) Murray Trailers (Heavy Haul) Trail King (Small to Heavy Haul) UTB (Service Bodies) Fleming Trailers
Agriculture	**Technology**
Challenger Tractors Massey Ferguson Tractors Rome (Construction Grade Discs and Plows) Woods (Scrapers and Mowers) Gearmore (Attachments) Reynolds (Scrapers) TG Schmeiser (Box blades, Land Levelers) Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	Spectra Precision (Survey Instruments) Trimble (2D and 3D Grading Systems) Accugrade (Caterpillar Grade Control) Seco (Surveying and Site Prep) Laserline (Laser Controls) Apache (Grade Control, GPS and Lasers) Level Best (Laser Grading Box)

Although these additional products and or services will be solely provided and supported by Empire Machinery for the customers within the territory Empire Machinery serves, this list of Allied products is an example for similar products and or services that can be obtained from other Dealers across the country.

Dealer Response

All Caterpillar Dealers, including Empire Machinery, represent the full line of products that Caterpillar describes in their response.

Caterpillar offers the largest number of individual models in the construction and governmental industry, as the table below illustrates. With 239 different models, Caterpillar offers more than 159 machine options than their closest competitor. No matter what the need is, big or small, Caterpillar offers more machine options/configurations to help our customers optimize each machine to customer's specific application in order to help achieve maximum utilization.

Number of unique machines by Manufacturer (Excludes Mining Products)	Caterpillar	John Deere	Komatsu	Volvo	Case	Bobcat
Wheel Loaders	20	15	8	13	12	5
Motorgraders	6	3	1	0	3	0
Dozers	11	7	7	0	6	0
Excavators (not including mining)	38	22	11	21	9	10
Articulated Trucks	6	5	2	5	0	0
Backhoe Loaders	5	4	3	2	2	0
Skid Steer/Compact Track Loader/MultiTerrain Loader	30	12	0	11	10	24
Skip Loaders (Industrial Class)	1	1	0	0	1	0
Landfill Compactors	3	0	0	0	0	0
Landfill Dozers	6	1	3	0	3	0
Forest Machines – Governmental Class	12	7	7	7	2	0
Scrap/Demo Material Handlers	7	0	1	0	0	0
Off Highway Trucks – Governmental Class	4	0	2	0	0	0
Asphalt Rollers -- Governmental Class	23	0	0	7	10	0
Asphalt Pavers	8	0	0	6	0	0
Dirt Rollers and Compactors	28	0	0	5	4	0
Cold Planers	5	0	0	0	0	0
Reclaimers/Soil Stabilizers	3	0	0	0	0	0
Telehandlers/Forward Reach Fork Lifts	8	0	0	0	0	0
Wheel Dozers – Governmental Class	2	0	0	0	0	0
Wheeled Excavators	8	0	0	3	0	0
Wheel Tractor Scrapers	5	0	0	0	0	0
Breadth of Caterpillar machines covering Governmental Market	239	77	45	80	62	39

For the City of Tucson and the extended Empire Machinery dealer territory, Empire Machinery offers a line of equipment and work tools that Caterpillar doesn't market or manufacture. These products are commonly referred to in the industry as "Allied Products".

Empire Machinery, as well as the other CAT Dealers across North America, carry a wide variety of Allied products to complement the Caterpillar line as well as fill the gaps of the equipment needs of our customers in all industries.

Although these additional products and or services will be solely provided and supported by Empire Machinery for the customers within the territory Empire Machinery serves, this additional offering provides a relative model for similar products and or services that can be offered by from other Cat Dealers across the country.

The "Allied" products that are included, but not limited to, in this RFP are:

Construction and Mining	On Road Industrial
Allmand (Light Towers) Broce Brooms JLG (Man lifts) Mega (Water tanks, Towers and Trailers) Genie (Man lifts and Telehandlers) Progressive Solar (Solar Power Light Plants) Multiquip Power Sullair Air Compressors Rockland (Buckets and Dozer Blades) Paladin (Couplers and Attachments) CE Attachments (Attachments) Dymax (Attachments) Weiler Paving Products (Pavers, Tack Truck & Trailers, Wideners) Wain-Roy	Fuso Trucks Mac Trailers Maintainer (Service Bodies) Murray Trailers (Heavy Haul) Trail King (Small to Heavy Haul) UTB (Service Bodies) Fleming Trailers
Agriculture	**Technology**
Challenger Tractors Massey Ferguson Tractors Rome (Construction Grade Discs and Plows) Woods (Scrapers and Mowers) Gearmore (Attachments) Reynolds (Scrapers) TG Schmeiser (Box blades, Land Levelers) Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	Spectra Precision (Survey Instruments) Trimble (2D and 3D Grading Systems) Accugrade (Caterpillar Grade Control) Seco (Surveying and Site Prep) Laserline (Laser Controls) Apache (Grade Control, GPS and Lasers) Level Best (Laser Grading Box)

3. Identify accessories, parts, services, etc. that are available through the manufacturer.

Caterpillar Response (only)

All Caterpillar products and services will be provided through Caterpillar's North American Dealer Network.

In North America alone, Cat dealers inventory over $1.0 Billion in protective parts stock to minimize machine downtime for its customers. Caterpillar currently has an industry-leading 24-hour parts fill rate of 99%.

Caterpillar doesn't focus on just the current model parts; we provide the most comprehensive line of legacy and remanufactured parts in the industry.

Most Caterpillar machines are designed for multiple lives, meaning once the first hours of useable life has been met, it can be rebuilt once or in many cases two or three times again. Because of the long life cycles of the Caterpillar product, we make sure we have legacy parts available to ensure that customers get the full life out of their machines at the lowest cost per hour.

In addition to providing legacy parts, Caterpillar boasts the largest availability of remanufactured parts in the Industry. These parts are brought back to new standards and include the same warranty as new parts all while only costing a fraction when compared to new.

Caterpillar also offers a full line of work tools and attachments to add even more versatility to the host machine. This will provide an even greater selection of solutions for the customer. Caterpillar currently holds the market leader position in both sales and models offered with more than 1,800 different work tool options currently available.

4. Identify accessories, parts, services, etc. that are available through the authorized dealer.

Caterpillar Response

In addition to the new machines and power systems mentioned above, Dealers also offer a complete line of OEM repair parts, work tools and attachments.

Services such as repairs, rebuilds, maintenance, financing, extended protection plans, training, consulting, remote monitoring and more are offered by Dealers.

Additional services and other lines of equipment may be available depending on local dealer capabilities.

The purchasing of used equipment and renting equipment is included under this contract and sale/rental prices will follow the same maximum price minimum discount method as purchasing new equipment off this contract. This ensures when purchasing/renting these types of machines they are competitively priced based on like machines in the market place.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Empire's 22 locations in Arizona, with three of those locations positioned in close proximity to the City of Tucson locations, are unmatched by any competitor.

Empire Exclusives:

- Family owned, locally managed by Arizonans who live in Arizona
- Over 1,600 dedicated, tenured and committed employees
- 239 different Caterpillar machine models (governmental) with exhaustive configuration options for each, allowing the City of Tucson to optimize the machine for the application
- Prime and standby power generators
- On-road trucks and trailers
- 36 Allied products that enhance production or reduce time on the job
- Over 540 trained service technicians
- Over 300 field service trucks
- 172 service bays
- Broadest warranty coverage, covering more parts than any competitor in the industry
- Warranty decisions made locally by Empire, not factory representatives
- $93 million in parts inventory
- 161,824 parts line items in stock
- 93.5% parts fill rate over-the-counter anywhere in the State
- 96.24% parts fill rate within 24 hours, anywhere in the State
- 98.3% parts fill rate within 48 hours, anywhere in the State
- 94.97% over-the-counter parts availability in Mesa
- 99.9% parts filled within seven business days, anywhere in the State
- Over 1,800 prime units and 3,000 attachments in our Rental fleets
- Professional, full-time, Caterpillar Certified Operator and Technical Trainers, along with dedicated facilities
- 60 heavy haul transport trucks
- Dedicated Consignment Department to help maximize returns on equipment disposal

Empire alone has more resources than all of our competitors combined. We firmly believe Empire is the only supplier in Arizona uniquely and exclusively qualified to provide the City of Tucson with the lowest Life Cycle Cost/Lowest Cost per Operating Hour.

Empire also offers a worldwide consignment service that has an 89% success rate, with an average days-on-market of 90 days. The majority of the remaining 11% of consignments that do not fall into the "success rate" are made up of machines that the consignor put back to work or non-typical machines such as pavers, curb machines and similar niche products that require a longer marketing time. When you consider historical methods of disposing of older and/or unused machines, this is a good option to consider.

Empire will consign **any brand of equipment** that falls into the scope of machines offered in our proposal. The consignment rate to the City of Tucson will be 9% of the actual transaction price.

For the fee, Empire will be responsible for all aspects of marketing, writing the advertising, advertising worldwide on the internet and, in print where appropriate. We will promote locally in our territory and manage all leads for the agreed upon consignment period. Empire will also be responsible for invoicing and collecting the payment from the buyer. Empire will pay seller within 48 hours of payment (typically less than 24 hours).

We have five dedicated international salesmen, plus 26 in-territory salesmen that actively and aggressively sell our consignment machines. Our consignment program has been a significant portion of our business for over nine years. Disposing of equipment via Empire Consignment realizes an estimated 10%-15% higher net return over a typical disposal using an auction service.

5. Provide descriptions, catalog(s) or website links for accessories, parts and supplies offered.

Caterpillar Response

To see Caterpillar's full line of heavy equipment, work tools, and services please visit: www.cat.com

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Please see the list of website links that Empire has provided for the accessories, parts, and supplies offered:

Manufacturer and Dealer	Website
Caterpillar	www.cat.com
Empire Southwest	www.empire-cat.com
North America Caterpillar Dealers	http://www.cat.com/en_US/support/dealer-locator.html
Construction and Mining	**Website**
Allmand (Light Towers)	www.allmand.com
Broce Brooms	www.brocebroom.com
JLG (Man lifts)	www.jlg.com
Mega (Water tanks, Towers and Trailers)	www.megacorpinc.com
Genie (Man lifts and Telehandlers)	www.genielift.com
Progressive Solar (Solar Power Light Plants)	www.progressivesolarsolutions
Multiquip Power	www.multiquip.com
Sullair Air Compressors	www.sullair.com
Rockland (Buckets and Dozer Blades)	www.rocklandmfg.com
Paladin (Couplers and Attachments)	www.paladin.com
CE Attachments (Attachments)	www.ceattachments.com
Dymax (Attachments)	www.dymaxinc.com
Weiler Paving Products (Pavers, Tack Trucks & Trailers, Wideners)	www.weilerproducts.com
Wain-Roy	www.woodsequipment.com
Agriculture	**Website**
Challenger Tractors	www.challenger-ag.com
Massey Ferguson Tractors	www.masseyferguson.com
Rome (Construction Grade Discs & Plows)	www.romeplow.com
Woods (Scrapers and Mowers)	www.woodsequipment.com
Gearmore (Attachments)	www.gearmore.com
Reynolds (Scrapers)	www.reynoldsinternational.com
TG Schmeiser (Box blades, land levelers)	www.tgschmeiser.com
Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	www.wilcoxap.com
On Road Industrial	**Website**
Fuso Trucks	www.mitfuso.com
Mac Trailers	www.mactrailers.com
Maintainer (Service Bodies)	www.maintainer.com
Murray Trailers (Heavy Haul)	www.murrytrailer.com
Trail King (Small to Heavy Haul)	www.trailking.com/trailers
UTB (Service Bodies)	www.unitedtruckbodies.com
Fleming Trailers	www.flemingtrailers.com
Technology	**Website**
Spectra Precision (Survey Instruments)	www.spectraprecision.com
Trimble (2D and 3D Grading Systems)	www.trimble.com
Accugrade (Caterpillar Grade Control)	www.Caterpillar.com/en
Seco (Surveying and Site Prep)	www.surveying.com
Laserline (Laser Controls)	www.laserlinemfg.com
Apache (Grade Control, GPS and Lasers)	www.apache-laser.com
Level Best (Laser Grading Box)	www.level-best.com

6. Do you offer color choices for each product listed?

Caterpillar Response (only)

Caterpillar machines are painted Caterpillar yellow, which is a copyrighted color and is proprietary. Caterpillar will meet customers' unique paint color requirements for an additional fee which must be quoted and agreed to prior to the start of build.

b. Describe descriptions, catalog(s) or website links for accessories, parts and supplies offered, including:

1. types of warranties available (by category or equipment)

Caterpillar Response

Caterpillar is proud to offer robust warranty for its products.

Caterpillar machines come with standard warranties against defects in material and workmanship. Warranty inclusions and exclusions will vary by product and details can be provided at any point in the purchase process.

The majority of new machines included under this solicitation will qualify for 12 months/unlimited hours warranty. Some products, notably compact track loaders and mini excavators, qualify for 12 months/1500 hours warranty.

Additional extended equipment protection plans can be customized to meet each customer's specific need. The following is an example of some of the options that would be available through the local supporting Cat dealer.

140M3 Motor Grader	Months	Hours
Premier	24 to 84	5000 to 7500
Powertrain & Hydraulics	24 to 84	5000 to 10000
Powertrain	24 to 84	5000 to 10000

Please note that all manufacturers' warranties and/or extended coverage plans do not cover the same components and/or systems that Caterpillar's protection plans cover. Repairs and or replacement of components not covered by other manufacturers can present a significant cost to the overall ownership of a machine. The breadth of coverage provided through Caterpillar's coverage plans re-emphasizes the confidence Caterpillar has in its products as well ensures the lowest total cost solution for our customers.

Also, please reference the two examples of typical warranty statements which are attached to this proposal.

For expanded explanation of the benefits of Caterpillars warranty, please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire/Caterpillar Warranty Offerings:

Caterpillar offers a wide range of warranties that can be custom built to best match the needs of our customers. There are two (2) basic Caterpillar warranties available: Standard and Extended

- Caterpillar Standard Warranty - All new Caterpillar manufactured machines come with Caterpillar's "Premier" warranty for 12 months, with unlimited hours, at no additional cost to the buyer. (See warranty details below under "Caterpillar Extended Warranty".)
- Caterpillar Extended Warranty – Begins at expiration of Standard Warranty. Caterpillar Insurance and Caterpillar dealers provide a vast array of optional warranties that can be customized by the length of time (from 2 - 7 years) and/or by the hours (2,000 - 10,000 hours).

There are three (3) types of extended warranties available from Caterpillar:

- Powertrain Only – Covers the components that are used to either produce, transmit or control engine horsepower for propelling (moving) the machine; such as engine, transmission, final drives, axles, and brakes.
- Powertrain and Hydraulics – Covers all the items above plus hydraulic hoses, lines, pumps, valves, cylinders, hydraulic coolers, and hydraulic filter mounts.
- Premier – Includes all of the above with the addition of starters, alternators, pulleys, AC condensers, air conditioning compressors, fuel lines, fuel tanks and associated parts, water piping, radiators, mufflers, electrical indicators, gauges, instruments, wiring harness, switches, joysticks, relays, circuit breakers, frames and chassis, and weldments.

General Warranty Information

Coverage - Inclusions, Exclusions

Standard machine warranty and extended warranties between manufacturers and dealers are not equal. There is no industry standard of items "to be included or excluded" in the scope of either coverage.

Repairs and/or replacement of components excluded by competitive manufacturers can present a significant expense or savings to the overall ownership of a machine. The breadth of coverage provided through Caterpillar's coverage plans re-emphasizes the confidence Caterpillar has in its products, as well as ensuring the lowest total cost solution for our customers.

Warranted claims will be presented by the customers to the supporting Caterpillar Dealer and will be administered at the local level. Empire will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customers.

Caterpillar machine warranties are the most comprehensive, covering more parts, more expensive parts, and excluding fewer items, in the industry. This results in lower expense exposure to the owners of Caterpillar equipment.

In comparing major manufacturers' stated warranty coverage listed in publicly available warranty documents, here is an example of parts (including their replacement labor) that are excluded by many manufacturers, but are included by Caterpillar Standard Warranty:

- Radiators
- Mufflers
- Starters
- Alternators
- AC Condenser/Compressor
- Fuel lines
- Hydraulic hoses and lines
- Gauges
- Wiring harnesses
- Frames and structures

Each of these individual items vary between different manufacturers, but they provide evidence that a buyer should consider the coverage of each to fully understand the true scope of their exposure, and calculate that exposure into the total machine price, from an operating cost perspective.

Beyond the firm boundaries of inclusions and exclusions of warranty, Caterpillar dealers utilize a "Fair Value" policy. Fair value is simply the process and procedures that rely on ethical and reasonable decisions to participate in a repair expense beyond warranty coverage. Fair value rules are not described in any written form; they take place when a Caterpillar Dealer and end user experience an event where both feel that the failed part did not meet expected life in a given application.

Once misapplication, abuse or misuse conditions are excluded, fair value reimbursement comes in a variety of forms: From full reimbursement to a shared expense, based on remaining normal life of the failed part, between Caterpillar Inc., Empire and the customers.

Additionally, Caterpillar warranties cover consequential damages. Some major and most minor brands do not. Example: A turbo fails, injects a part from the turbo into the cylinder head, and then destroys the head and piston; piston fracture penetrates the engine block. The turbo is the root cause, but Caterpillar warranty covers the entire repair of consequential damages.

View below to see the inclusions and exclusions of each of the three types of warranties Caterpillar offers:

✓ Represents covered items in their respective category

** Represents items typically excluded by most other manufacturer's warranties, but are included under Caterpillar's warranty coverage.

Engine & Accessories	Powertrain	Powertrain + Hydraulics	Premier
Engine – Internal Components	✓	✓	✓
Valve Cover	✓	✓	✓
Oil Cooler BHL	✓	✓	✓
Radiator			✓
Exhaust/Muffler			✓
Manifolds	✓	✓	✓
Fan Motor	✓	✓	✓
Water Pump	✓	✓	✓
Fuel Injection Pumps	✓	✓	✓
Injectors	✓	✓	✓
Lift/Transfer Pump	✓	✓	✓
Senders/Solenoids/Sensors	✓	✓	✓
Thermostat	✓	✓	✓
Flywheel & Torque Converter	✓	✓	✓
Oil Pan Group	✓	✓	✓
Engine Oil Filter Mount **	✓	✓	✓
Turbocharger	✓	✓	✓
Pulleys **	✓	✓	✓
Starter			✓
Alternator			✓
AC Compressor/Condenser			✓
Electronic Control Modules	✓	✓	✓
Governor/Speed Controls & Linkages **	✓	✓	✓
Fuel Lines **	✓	✓	✓
Fuel Tank & Associated Parts			✓
Water Piping			✓
Oil Hoses/Lines			✓
Transmission/Hydrostatic/Driveline	**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Transmissions	✓	✓	✓
Final Drives/Planetary	✓	✓	✓
Drive Shafts	✓	✓	✓
Transfer Case	✓	✓	✓
Wet brake assemblies	✓	✓	✓
Hydrostatic Pumps & Drive Motors **		✓	✓
Linkage/Lines Connected to Hystat Pump **		✓	✓
Drive (pilot/eh) Control Valves **	✓	✓	✓
Senders/Sensors **		✓	✓

Axles		Powertrain	Powertrain + Hydraulics	Premier
Axles		✓	✓	✓
Axle Seals	**	✓	✓	✓
Lug Nuts & Bolts	**	✓	✓	✓
Differentials		**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Differentials		✓	✓	✓
Hydraulic Systems		**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Hydraulic Pumps & Motors			✓	✓
Hydraulic Cylinders			✓	✓
Hydraulic Valves & Controls			✓	✓
Hydraulic Accumulators	**		✓	✓
Hydraulic Oil Coolers	**		✓	✓
Hoses and Lines	**		✓	✓
Hydraulic Quick Couplers	**		✓	✓
Hydraulic Oil Filter Mounts	**		✓	✓
Electrical		**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Gauges/Indicators/Instruments	**			✓
Wiring harnesses	**			✓
Switches	**			✓
Frames & Linkages		**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Chassis/Implement Frames	**			✓
Weldment	**			✓

Allied Product Warranty:

Allied products are excluded from the above terms and conditions. All Allied products will be sold with the manufacturer's standard warranty. This warranty differs from manufacturer to manufacturer. If extended warranty is available and the City of Tucson requests extended options from an Allied manufacturer, Empire will provide the price on a case by case basis.

2. description of your warranty claims procedures.

Caterpillar Response

Caterpillar warranty is administered by the Dealers. Dealers are best positioned to see that the customer receives outstanding service for their warranty repairs.

Warranted claims will be presented by the customer to the supporting Dealer and will be administered at the local level. The supporting Dealer will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customer.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire Service utilizes a highly structured, fact based and scientific Root Cause Failure Analysis process that is followed by Empire's Service Department. The process ensures the customer that Empire and Caterpillar fully understand the cause, and what role each affected part played in the failure, in order to help prevent it in the future.

The warranty process for Caterpillar machines is unique to the industry, allowing Empire to decide through its due diligence alone, if the failed part is covered under the scope of warranty. In the event of a warranty repair, Empire is responsible for repairing the machine. Once the repair is completed, the warranted parts and labor is charged to Caterpillar.

Any non-warranty covered items (such as oil antifreeze; fluids that cannot be reused) will be the responsibility of the owner. In the event that Caterpillar concludes a different root cause and believes it was caused by misapplication or misuse and rejects reimbursement, and Empire does not, Empire will absorb the expense.

3. description of your policy addressing warranty issues related to:

    i. Major Component Failures
    ii. Engineering Deficiencies
    iii. Describe your firm's standard response time to address warranty failure issues.

Caterpillar Response

Caterpillar is proud to offer robust warranty for its products.

All defects in materials and workmanship are fully covered under the warranty period. All claims will be investigated by the supporting Dealer and determined whether they fall under the warranty policy or under the category of normal repair and maintenance.

Of course if there is a major component failure significantly earlier than its predicted life, the dealer will investigate to determine the likely cause of failure. Should the cause be determined to be design or manufacturing related, the customer, Dealer, and a Caterpillar representative will work together to find a solution that is agreeable to all parties.

There is not a nationwide warranty response time guarantee because machines, applications, repair requirements and availability needs will vary by geography and customer. In every situation, the Dealer will work to resolve warranty issues as quickly as possible and/or provide an interim working solution.

For additional information regarding the description of policy addressing warranty issues related to; Major Component Failures, Engineering

Deficiencies, and Empire Machinery's standard response time to address warranty failure issues, please refer to the supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

As America's #1 dealer rebuild center, Empire inventories new complete components, along with remanufactured components, for replacement when a machine is down and the customer requires an emergency complete component replacement. Beyond Empire's extensive parts inventory, Caterpillar parts distribution warehouses across America and the globe also inventory an extensive selection of new components and remanufactured components.

Excluding emergency complete component replacement, Empire will bring to bear as many resources as possible to tear down and reassemble the down component, to return the machine to production as fast as humanly possible. This includes our staff working three shifts and/or weekends continuously or "around the clock" to achieve the turnaround if warranted. Normal warranty coverage will only cover normal (non-overtime) shop labor rates, during normal service hours. Normal service hours are from 5:00 a.m. to 12:00 midnight, Monday-Friday and from 6:00 a.m. until 12:00 noon on Saturdays.

Overtime rate is charged for all hours worked on holidays. No other competitor that we are aware of provides this expanse of available normal service hours. When requested, Empire will work overtime with the incremental overtime fee charged to the City of Tucson. Normal warranty coverage only includes shop labor rates during normal business hours and thus could result in overtime charges to the customer. Additionally, parts that are not normally stocked may include a customer charge for additional freight or handling, depending on circumstances.

Engineering Deficiencies: Empire and our customers benefit from a long relationship with Caterpillar Engineering for new machines and product improvement testing. Because of our unique Arizona/Imperial County, California and territory, Caterpillar engineers prefer to test new machines and product improvements in Empire's territory because of the range and access to high ambient temperature, high altitude, sea level altitude, abrasive dust, hard caliche and granites soil and sand (dune) conditions. Our applications range from farming to forestry harvesting, to hard rock mining.

This multi-decade experience has provided Empire staff with a wealth of knowledge, experience, relationships and access to Caterpillar's engineering staff around the world. It has provided our customers with purpose-built machines and components tested here to perform here. This experience helps our staff identify a deficiency, quickly begin to test our possible solution, and offer it to Caterpillar; or fabricate, install and test Caterpillar's solutions.

Empire's standard response times are based on the fact that our customer purchases a new machine because unscheduled downtime creates critical disruption to their production. Most customers expect that we will handle every machine-down warranty event like an emergency. We are "built for it". Empire invests and maintains the staffing capacity to provide

customers two shifts per day, plus single shift on weekends and on-call staff for holidays to respond to these events with the utmost urgency.

Beyond this, a failure on Empire's part to deliver expected or promised service is always taken into account before any request for additional charges are presented to a customer. We take pride in the fact that Empire's owners expect all employees to consider first how we may have contributed to increasing a customer's expense or downtime. We are empowered, at all levels, to make ethical and fair charge adjustments before approaching a customer about additional expense to warranty coverage.

c. Is there a dedicated support representative that the City should contact? If yes, provide their name and complete contact information.

Caterpillar Response

For all support related to this contract, the account manager at Caterpillar is:

Patty Redpath
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

For specific product support at Empire Machinery, please refer to the supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

For all support related to this contract, please contact:

Clinton Swapp
Sales Account Manager
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8213
Cell: 520-240-8213
Email: Clinton.Swapp@empire-cat.com

Ty Robertson
Product Support Sales Representative
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8226
Cell: 520-269-1171
Email: Ty.Robertson@empire-cat.com

d. Provide information which details the costs, types, and extents of available extended warranty coverage for heavy equipment.

Caterpillar Response

Additional extended protection plans are available for purchase. Three major types of protection are generally offered: Powertrain, Powertrain + Hydraulics and Premier. Customization of Extended Protection Plans is also an option available through our dealer network.

The costs for these extended plans vary by product, type of coverage, machine application and length of coverage. Because Dealers are independently owned businesses with widely varying geographic service territories, the actual costs

associated with supporting such warranties will vary and cannot be quoted on a national scale by Caterpillar as fixed amounts.

Such factors include but are not limited to the Dealer's shop labor rates, transportation costs both for the machine as well as the technician and many others. It is recommended that warranty and extended protection plan considerations be clearly stated and agreed to prior to any transaction as a result of this contract.

For expanded explanation of the benefits of Caterpillars warranty please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

With over 360 different Caterpillar products covered in this solicitation, and with over 65 different options for each of those machines with time and hour combinations, the matrix of extended warranty pricing would be too large to provide in this format.

Additionally, because of the competitive exposure, we are not at liberty to provide for public record, all of Caterpillar Insurance Extended Warranty pricing. For this proposal, we will provide requested rates on a model-by-model, term and hour specified basis.

e. Describe how your firm is anticipating and ensuring compliance with the Environmental Protection Agency (EPA) emission changes.

Caterpillar Response

Caterpillar fully supports the efforts of the Environmental Protection Agency and we are proud to offer the largest number of machines compared to competitors, meeting Tier 4 final emissions requirements. All new machines are fully compliant under current emissions regulations which do vary by horsepower and intended use.

Managing a broad global product line is challenging so to ensure we are properly prepared for any additional regulations, Caterpillar has a dedicated team of experts that works very closely with EPA officials.

In 2016, Caterpillar was once again named to the prestigious Dow Jones Sustainability Index (DJSI) List, marking the 17th time we have been included in the DJSI. Caterpillar leads its global peers in the Capital Goods sector in the areas of innovation management, risk and crisis management, labor practices and human rights, as well as corporate citizenship and philanthropy.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire's technical resource group (similar to all Caterpillar dealers) has been engaged with Caterpillar engineers throughout the development of Tier 1, Tier 2, Tier 3, Tier 4i and Tier 4 Final since the Federal regulations were implemented.

Empire's (and our customers') ongoing participation of Caterpillar "Field Follow" program of prototype machines operated by customers in our territory, provides Empire both a first look and a wealth of experience in service support before production machines are ever produced for sale or delivered to a customer. Additionally, Caterpillar offers remanufactured exchange filters and Empire stocks them.

As of this submittal, it is becoming more apparent that exchange emission filters available from our parts department are faster, safer, more environmentally responsible and more economical for the customer than the other option of maintaining a DPF cleaning machine at our dealership stores. For redundant support, Empire owns and operates a DPF cleaning machine in our Phoenix store in the event of an unexpected supply disruption from Caterpillar.

Along with the above service capacity, Empire provides on-line information, updated regularly, for the City of Tucson managers, supervisors and operators to help them understand how the technology works. Tips and warnings are constantly updated to help our customers stay informed and reduce the risk of emissions solutions damage. Empire requires continuing education for our Sales and Product Support staff as an incremental resource that helps customers stay informed. Our operator trainer staff is always available to our customers for on-the-job operator education of the technology.

f. Submit all information that will aid the City in evaluating your proposal

Caterpillar Response (only)

To view Caterpillar's achievements in sustainability, please view our most recent Sustainability Report at:

http://www.caterpillar.com/en/company/sustainability.html

Also, please note the industry awards Caterpillar has received in the last few years.

Roads and Bridges is a highly regarded industry trade publication devoted to equipment owning and operating customers. Each year Roads and Bridges publishes a list of equipment models and categories that have been identified by these customers as being the best in class for their respective categories and size classes.

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Year	Category	Level	Model
2015	Asphalt Pavers	Gold	CAT AP1055E
2015	Asphalt Pavers (Small)	Gold	CAT AP555E
2015	Asphalt Screeds	Gold	CAT AS3301C
2015	Compaction (Asphalt)	Gold	CAT CB54B
2015	Compaction (Soil)	Gold	CAT CS56B
2015	Concrete Breakers	Gold	CAT H120Es
2015	Dozers	Gold	CAT D6T
2015	Excavators	Gold	CAT 323F
2015	Loader Backhoes	Gold	CAT 420F
2015	Mini Excavators	Gold	CAT 308E2
2015	Motor Graders	Gold	140M2
2015	Recyclers/Reclaiming Machines/Soil Stabilizers	Gold	CAT RM500
2015	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2015	Specialty Excavators	Gold	CAT 335F
2015	Telehandlers	Gold	CAT TH514C
2015	Trucks (Off-Highway)	Gold	CAT 772G
2015	Wheel Loaders	Gold	CAT 938K
2015	Asphalt Milling Machines	Silver	CAT PM200
2015	Skid-Steer Loaders	Silver	CAT 259D
2015	GPS/Laser-Guided Equipment	Bronze	Cat Grade Control
2014	Asphalt Pavers	Gold	CAT AP1055E
2014	Asphalt Pavers (Small)	Gold	CAT AP555E
2014	Asphalt Screeds	Gold	CAT AS3301C
2014	Compaction (Asphalt)	Gold	CAT CB54B
2014	Compaction (Soil)	Gold	CAT CS56B
2014	Concrete Breakers	Gold	CAT H120Es
2014	Dozers	Gold	CAT D6K2
2014	Excavators	Gold	CAT 336E H
2014	Loader Backhoes	Gold	CAT 420F
2014	Mini Excavators	Gold	CAT 308E2
2014	Motor Graders	Gold	14M2
2014	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2014	Specialty Excavators	Gold	CAT 328D LCR
2014	Telehandlers	Gold	CAT TH514C
2014	Trucks (Off-Highway)	Gold	CAT 773G
2014	Wheel Loaders	Gold	CAT 938K

2014	Recyclers/Reclaiming Machines/Soil Stabilizers	Silver	CAT RM500
2014	Skid-Steer Loaders	Silver	CAT 299D
2014	Asphalt Milling Machines	Bronze	CAT PM200
2013	Concrete Breakers	Gold	CAT H90C
2013	Asphalt Pavers	Gold	CAT AP1055E
2013	Asphalt Pavers (Small)	Gold	CAT AP555E
2013	Asphalt Screeds	Gold	CAT AS3301C
2013	Compaction (Asphalt)	Gold	CAT CB64
2013	Compaction (Soil)	Gold	CAT CS56
2013	Recyclers/Reclaiming Machines/Soil Stabilizers	Gold	CAT RM500
2013	Track type Tractors (Dozers)	Gold	CAT D6T
2013	Excavators	Gold	CAT 320D L
2013	Specialty Excavators	Gold	CAT 328D LCR
2013	Loader Backhoes	Gold	CAT 420E
2013	Mini Excavators	Gold	300.9D
2013	Telehandlers	Gold	CAT TH514
2013	Wheel Loaders	Gold	CAT 930H
2013	Off-Highway Trucks	Gold	CAT 775G
2013	Motor Graders	Gold	12M2 AWD
2013	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2013	GPS/Laser-Guided Equipment	Silver	Cat Grade Control
2013	Skid-Steer Loaders	Silver	CAT 259B3
2013	Asphalt Milling Machines	Bronze	CAT PM200
2013	On-Highway Trucks	Bronze	CT660

Included Links for additional Road and Bridges information:

http://www.cat.com/en_US/articles/customer-stories/awards/cat-products-receive-top-100-and-contractors-choice-awards.html

http://www.cat.com/en_US/articles/customer-stories/awards/cat-products-receivecontractorschoiceawardsin19categories.html

http://www.cat.com/en_ID/articles/customer-stories/cat-products-receivecontractorschoiceawardsin21categories.html

The following is a list of additional industry accolades that Caterpillar has received in recent years:

- Caterpillar Ranked #82 on Interbrand's Best Global Brand List
- Caterpillar wins 2016 ANNY excellence in analytics award
- Caterpillar's Commitment to Sustainable Development Recognized by United Nations

- Caterpillar helps to protect 2,100 acres of coastal wetlands in California
- Caterpillar Awarded the Vision for America Award from the Keep America Beautiful Organization
- Caterpillar named finalist for prestigious sustainability honor – Circular Economy Award
- Caterpillar ranked 12 on the "Top 50 Employers" list in Women Engineer Magazine
- Caterpillar Named One of Fortune's World's Most Admired Companies In 2015
- Caterpillar Recognized on Interbrand's 2014 Best Global Green Brands
- Caterpillar named on Diversity Inc's Top 25 Noteworthy Companies for Diversity List for 2014
- Caterpillar of Australia Recognized For Commitment To Workforce Diversity
- Caterpillar Named One of North Carolina's Best Employers of 2014 by Business North Carolina
- Caterpillar Celebrates 60 Years in Brazil and is Chosen One of the Best Workplaces in the Country
- Caterpillar Named One of FORTUNE's World's Most Admired Companies in 2014
- Caterpillar Receives National Recognition for Hurricane Sandy Response
- Caterpillar Named a North Carolina Top 50 Family-Friendly Company
- Caterpillar Recognized for Supplier Diversity
- Caterpillar is #12 most Reputable Big Company
- Caterpillar ranked 27 on Fortune Magazine's list of the Worlds Most Admired Companies
- Caterpillar ranked 12 on the "Top 50 Employers" list in Women Engineer Magazine
- Caterpillar World Headquarters Awarded LEED-EB Gold from US Green Building Council
- Caterpillar China Wins 100 Best HR Management Companies of 2010
- Illinois Governor's Pollution Prevention Award
- Caterpillar World Headquarters Awarded US EPA Energy Star
- Caterpillar receives the International Pipeline and Offshore Contractors Association award for Eco Operator Training
- Caterpillar in Top 20 of Social Responsibility Ratings
- Caterpillar Chairman receives Distinguished Citizen Award
- Caterpillar Inc. Recognized as one of the World's Most Ethical Companies
- Newsweek Green Rakings ranks Caterpillar 72nd out of top 500 companies, 3 of top 20 industrial goods.
- Caterpillar ranked #9 on the 19th Annual "Top 50 Employers" list in Women Engineer magazine

4) Service

a. Provide a detailed written response illustrating how your firm or the authorized dealers will provide services to meet the requirements of this solicitation. Offerors shall provide the proposed services that will meet the Service Requirements section of the Scope of Work outlined in this solicitation. For each proposed category, describe and/or provide details explaining your capabilities. In your response include information such as:

1. Provide detailed information explaining your service capabilities.

Caterpillar Response (only)

Caterpillar takes great pride in our foundation of outstanding product and customer support. While the actual service and support of products sold through this contract will be conducted by the selling dealer, Caterpillar supports their efforts through many channels.

We start by designing durable, reliable, long-lived products with ease of operation and service in mind. These products are thoroughly tested to validate the design. When approved for production, a very strict protocol is put into place to ensure strict adherence to the build plan. Quality inspections occur throughout the manufacturing process and again when it arrives at the local dealership.

Prior to first shipment, Caterpillar ensures that Dealer has access to Owning & Operating Manuals, Service Manuals, Parts Books, and Disassembly & Assembly Manuals.

Every Dealer has a process in place to troubleshoot and diagnose problems. Caterpillar also maintains a field force of technical representatives to ensure customer downtime is minimized. Factory service engineers work very closely with Dealers in situations where a problem cannot be easily resolved and engage all resources necessary for problem resolution.

2. Provide detailed information explaining the service capabilities of your authorized dealers.

Caterpillar Response

Caterpillar and Cat dealers offer industry leading product support. Field Service trucks with resident field technicians and parts drops provide a level of service unmatched in the industry to reduce down time and increase productivity.

All participating Dealers employ trained, experienced technicians to support Caterpillar's full range of products. Dealer Technical Communicators (TCs) provide additional support to field/shop technicians to aid in rapid product or application resolution. Dealer TCs have a direct line of communication with Caterpillar Inc. through the Dealer Solution Network to expedite problem solving.

Caterpillar's North American dealer network currently employs over 46,000 employees of which approximately 70% are dedicated to the product support business. With nearly 700 dealer branch locations and approximately 7,000 field service personnel, these highly skilled and trained Cat dealer technicians are in close proximity to provide unmatched service capabilities to meet your servicing

requirements. As a commitment to servicing our customers, Cat dealers invest over $75 Million annually in technician, parts counter, and product support representative training. Over the last 90 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry through a financially healthy and viable dealer network that is dedicated to the business of our customers.

Caterpillar's ability to meet 24-hour service needs is based on servicing dealer discretion at time of transaction. However, most dealers offer a 24-hour emergency service call-out option with a price based on local rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

Image 2: US Dealer Locations

Dealer Response

All 22 Empire stores are capable of warranty service and have trained technicians to support warranty.

For very large components, some remote branch stores may not have the heavy lifting infrastructure or highly specialized machining tools to complete every job. Those components may be shipped to the closest Empire facility that can complete the work. All such transportation will be handled by Empire internally.

EMPIRE LOCATIONS	TELEPHONE	ADDRESS	
Apache Junction	480-308-9100	3215 S. Winchester Rd.	85119
Blythe	760-921-9500	190 S. Intake Blvd.	92225
Buckeye	623-925-3020	26403 MC 85 Buckeye	85326
Buckeye	623-474-0840	25630 W. Durango St.	85326
Casa Grande	520-374-3500	8901 W. Highway 287	85194
Deer Valley	623-760-1100	21230 N. Black Canyon Hwy., Phoenix	85027
Eloy	520-582-2900	3501 W. Houser Rd.	85131
Flagstaff	928-526-2800	4900 E. Empire Ave.	86004
Globe	928-402-6410	190 W. Ash St.	85501
Imperial	760-355-2443	3393 Highway 86	92251
Kingman	928-757-1159	3255 E. Rutherford Dr.	86409
Mesa	480-633-4000	1725 S. Country Club Dr.	85210
Mesa	480-633-4421	256 W. Juanita Ave.	85210
Nogales	520-287-6630	350 N. Mariposa Rd.	85621
Peoria	632-707-1700	9802 N. 91st Ave.	85345
Phoenix	602-333-5600	801 N. 44th Ave.	85009
Phoenix	602-627-5700	840 N. 43rd Ave., Phoenix	85009
Prescott	928-499-6001	3060 Centerpointe East Dr.	86301
Safford	928-387-8700	444 W. Old Country Club Rd.	85546
Show Low	928-532-2098	1501 E. Thornton St.	85901
Tucson	520-746-8200	7600 S. Nogales Hwy	85756
Tucson	520-407-3100	3830 N. Highway Dr.	85705
Yuma	928-317-7800	3885 E. Gila Ridge Rd.	85365

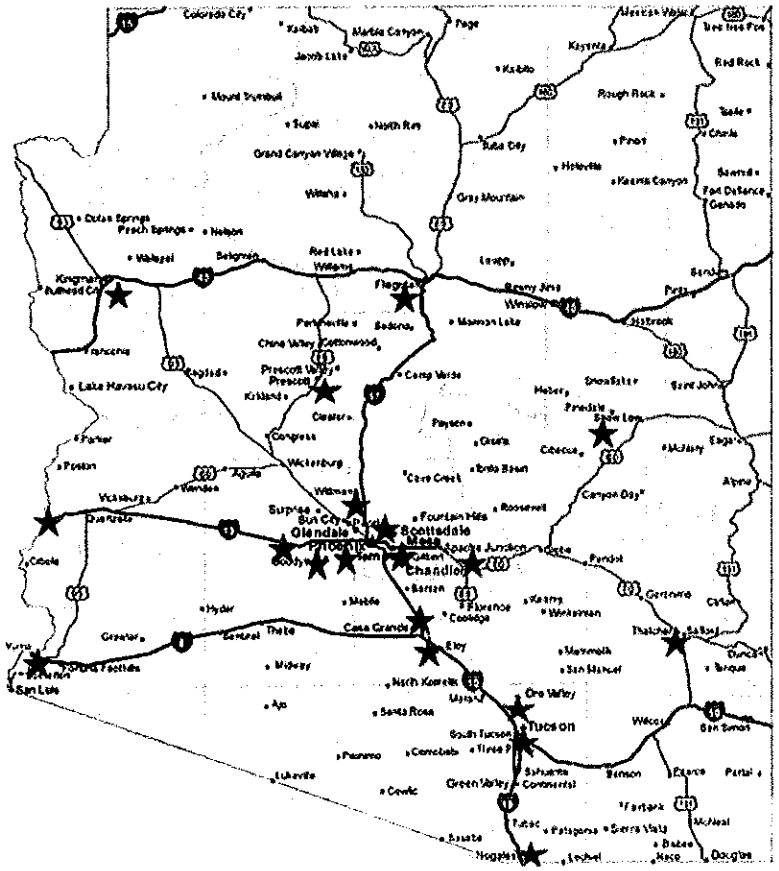


Image: Empire locations

3. Describe the maintenance programs offered. If a maintenance program is selected by the City, will your firm provide a loaner or rental machine if the machine is down for more than 24 hours?

Caterpillar Response

All Cat Dealers can customize maintenance programs for their customers based on each customer's individual needs. When a service or maintenance program is created, the terms of the program supported by the local Cat Dealer will outline any replacement / loaner options.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

As described in Caterpillar's response, Empire and other CAT Dealers can customize maintenance programs to fit the specific needs of our customers.

The pricing for maintenance services explained below can vary based on the model, hours of usage, and duration of agreement, and can be quoted on an individual basis.

The following are some examples of the different maintenance agreements that are available:

- PM (Preventative Maintenance) Services

  PM services are broken into five (5) categories and follow the manufacturer's service recommendations, or can be customized to meet customers' needs.

  - PM1 – Services the manufacturer recommends at 250 hours
  - PM2 – Services the manufacturer recommends at 500 hours
  - PM3 – Services the manufacturer recommends at 1,000 hours
  - PM4 – Services the manufacturer recommends at 2,000 hours
  - PM5 – Services the manufacturer recommends at 4,000 hours

  Empire and participating dealers can offer different options for these hour intervals including:

  - Parts only agreements
  - Parts and fluids only agreements
  - Parts, fluids, and labor agreements

Please see generalized chart below for the services performed at each PM interval.

	PM1 250 hours	PM2 500 hours	PM3 1000 hours	PM4 2000 hours	PM5 4000 hours
Change Engine Oil, Engine Oil Filters and take engine oil sample	X	X	X	X	X
Speed Reducer Oil Gets Changed and Sampled (On Elevator Scrapers)	X	X	X	X	X
Check all fluids levels such as Transmissions, Differentials, Tandems, Hydraulic, Steering, Coolant	X	X	X	X	X
Change fuel filters and fuel /water separators, clean fuel bowl screen (replace if neccessary)	X	X	X	X	X
Change Primary Air Filters	X	X	X	X	X
Check Coolant Condition - Freeze point	X	X	X	X	X
Perform and record a visual walk around of equipment as per OEM including but not limited to Back up alarm, tires, batteries, belts, ground engaging tools (cutting edges, bucket teeth, dozer blade, Moe board, buckets, bowl (cen), ripper shanks)	X	X	X	X	X
Change cab A/C filters	X	X	X	X	X
Lubricate all grease points	X	X	X	X	X
Inspect and test all visible and safety systems	X	X	X	X	X
Change all filters this includes hydraulic filters, transmission filters, differentials filters if applicable		X	X	X	X
Change rear differential oil (Backhoe Loaders only on A.D. Models)		X	X	X	X
Change front wheel oil on off highway trucks		X	X	X	X
Change the Transmission oils, clean transmission screens and magnetic			X	X	X
Change swing drives oils on excavators, change differential and finals oils on backhoes			X	X	X
Change hydraulic oils on AG tractors, telehandlers, vibratory compactors only, change chain case oils on skid steer loaders			X	X	X
Change circle drive oil on motor graders			X	X	X
Change axle differential and final oils				X	X
Change tandem oil drive oils on motor graders				X	X
Change circle drive oils on motor graders according to OEM				X	X
Change hydraulic system oil					X

- **Total Maintenance and Repair (TM&R):**

  In a TM&R agreement, Empire and participating dealers will completely cover the equipment for any agreed upon repairs and preventative maintenance services for the duration of time and usage hours as specified by the agreement, based on the customers' needs.

  TM&R's can be customized by the customer, including the following:

  - With/without travel
  - With/without scheduled component rebuilds

- Powertrain & Hydraulics
- With/without certain PM services
- With/without daily maintenance & cleanings
- With/without daily fueling

Exclusions in most cases include the following:

- Tires
- Glass
- Fuel
- GET replacement
- Components that contact the ground (bucket, blade, bed, bowl, etc.)
- Misuse and abuse
- Paint
- Any repairs due to customer not following the Original Manufacturer's Manual (OMM).

- **Man on Site Agreement:**

  This type of an agreement can be offered on a stand-alone basis or in conjunction with other maintenance agreements for any customer that does not have the qualified staff/technician(s) or, is unable to add them.

  Empire and participating dealers will provide a "man on site" for any duration of usage hours and time: Day, week, month, as specified by the agreement.

  The technician will usually perform:

  - Running repairs
  - Preventative maintenance services

  Other onsite services could include:

  - Daily inspections
  - Cleanings
  - Operational checks

  The "man on site" agreement includes a qualified technician, field service truck, and the tools needed to perform basic repairs.

  Additional "man on site" Inclusions or exclusions in most cases include the following:

  - Housing (when applicable)
  - Overtime rates

- Unique equipment tooling costs: Large cranes, cribbing, certified shops, contamination control, etc.
- Percentage of guaranteed availability

- **Daily Fuel and Lube Agreement**

  Empire, and participating dealers can provide daily fueling and grease to any machine at any of the City of Tucson sites, for any duration of time and/or usage hours to the specified needs of our customers.

  Inclusions and exclusions in most cases include:

  - With/Without daily cleanings.
  - With/without daily inspections

We do not provide loaner machines. Empire will provide a down machine rental discount program (see details below).

For dealers representing any brand, contractual loaner guarantees have an incalculable financial risk. No dealer can guarantee 100% of the time that they will have a like-kind machine available and ready at any given moment.

But, this deserves more explanation:

Our highly valued relationship with the City of Tucson demands we consider loaners in certain circumstances. However, that decision must remain solely at Empire's discretion and it will be one of several possible solutions for a down machine that creates a critical hardship.

At a minimum, Empire will provide a subsidized rental machine that is either an exact match or based on the City of Tucson's input, adequately sized unit at a 50% discount from Empire's rental rate. The City of Tucson will be responsible for the normal rental wear items associated with a rental for the duration of time the down machine is under warranty.

Additionally, if a down machine is causing a hardship to the City of Tucson from a habitual issue that Empire has not yet solved, the probability is high that Empire will provide a loaner at no cost to the City of Tucson, other than wear items. But again, that decision must remain solely with Empire.

Field Service trucks with resident field technicians and parts drops provide a level of service unmatched in Empire's territory to reduce down time and increase productivity.

Empire only employs trained, experienced technicians to support Caterpillar's full range of products. Empire Technical Communicators (TC) provide additional support to field/shop technicians to aid in rapid product or application issue resolutions. Empire TC's have a direct line of communication with Caterpillar Inc., through the Dealer Solution Network, to expedite problem solving.

Empire currently employs over 1,600 employees, of which approximately 73% are dedicated to product support. With over 22 service locations, over 170 service bays and over 290 field service trucks, these highly skilled and trained Caterpillar trained

technicians are in close proximity to provide unmatched service capabilities to meet your service requirements.

As part of a commitment to servicing customers, Empire invests nearly $3 million annually in technician, parts counter, and product support representative training. Over the last 65 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry, through a financially healthy and viable company that is dedicated to the business of our customers.

4. Describe your training programs, addressing, at a minimum, the following:

   i. How will equipment training be conducted?
   ii. Describe the training curriculum for the equipment operators.
   iii. Describe the training curriculum for the service technicians.
   iv. How will you accommodate various work shifts?
   v. What type of documentation is provided with the proposed training?
   vi. Is a "train the trainer" program available? Is this training different than the regular initial training? Can training sessions be recorded for future use by the agency?
   vii. Is the training provided by the manufacturer, dealer or both?

Caterpillar Response

Dealers support a variety of training options. Upon delivery of the machine, operators as well as technicians will be given basic equipment orientation, operating procedures, and service maintenance information required to put the machine into service. Should an agency require additional training, such consideration can be included in the customer's equipment quotation.

Caterpillar also offers a variety of operator training classes that provide certification to those agencies that require a higher level of operational expertise.

For additional information on these and other training options, please visit: http://www.cat.com/en_US/support/operations/cat-training.html

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

i. How will equipment training be conducted?

Empire will travel to whatever organization site the City of Tucson requests, to provide both operator and preventative maintenance training.

ii. Describe the training curriculum for the equipment operators.

Empire offers comprehensive operator training for all Caterpillar machines by our Certified Dealer Instructors (CDI). CDI's are dedicated full time to this process. CDI's are Caterpillar Certified on various applications for individual machine groups. Empire does not depend on a service technician or machine

salesman to provide this critical task. CDI's begin the ownership experience by providing customers the most thorough "in-service" training and orientation in the industry. This service is provided at delivery of ALL new Caterpillar machines.

The operator training includes complete machine walk-around inspections, discussion regarding daily maintenance/checklists and hands-on operational instruction, along with comprehensive coverage of the Operations & Maintenance Manual. Proper operator understanding is a significant advantage to help reduce the operating cost per hour of the machine life cycle.

The orientation will cover the following:

- Coverage of the Operation and Maintenance Manual
- Hands on demonstration of all wet and dry fluid and filter locations and compartments
- All safety decals and their meaning along with examples of incidents
- All machine controls, functions, features
- Live demonstration (where site allows) of machine reaction to control inputs
- Review common operator misuse or abuse habits and resulting damages (i.e. damaging parking brakes)

Additionally, our Operator Training Department permanently staffs a Training Manager with seven Certified Dealer Instructors traveling throughout Arizona, performing new machine delivery training, certified training and refresher courses along with analyzing production improvements for in-specific applications when requested.

Empire provides this for both public and private customers, for an additional charge, when requested.

iii. Describe the training curriculum for the service technicians.

Our service delivery training begins with Safety. Our instructor will cover all the safety decals and their explanation of why, as it's described in the Operation & Maintenance Manual. The following is an outline and agenda for a training session.

Safety: All decals and what they mean along with examples of past events.

Pretest: Caterpillar Safety Test must be passed by all attendees before continuing.

1. Equipment Familiarization
    a. Walk around inspection
    b. Daily service points/lubrication
    c. Cab and controls
    d. Fundamental techniques
2. Start Up/Shut Down
3. Machine Operation
4. Systems Overview
    a. Operator's station

b. Engine
c. Electrical system
d. Power train
e. Implement and steering hydraulic systems
f. Auxiliary hydraulic lines
g. Thumbs
h. Buckets
i. Couplers

5. Post Test
6. Review Maintenance Section of Operation and Maintenance Manual
   a. Lubricants and fluids
   b. Towing
   c. Review PM checklist and procedures
      - 250 Hour
      - 500 Hour
      - 1000 Hour
      - 2000 Hour

In addition to our Service delivery process, Empire offers a dedicated facility and dedicated full time staff in our Training Institute:

The Empire Training Institute (ETI) is one of five Caterpillar Certified Regional Dealer Learning Centers in North America, and one of just three Caterpillar Certified Applied Failure Analysis training facilities. ETI provides both technical and non-technical training programs for Empire employees, customers and other Caterpillar dealers via instructor-led and web-based training courses.

ETI is a dedicated 36,000 square-foot facility with eight fully equipped classrooms and over 10,000 square feet of shop space. Our experienced staff includes eight Caterpillar certified technical instructors, one soft skills instructor and one safety instructor.

Classes can be scheduled and conducted at the Empire Training Institute facility at Empire's Mesa campus or at customer sites. All training courses utilize "pre and post" testing procedures to measure learning and monitor growth, and students are presented with a certificate upon successful completion.

Training topics include, but are not limited to:

- Safety
- Diesel
- Electrical
- Engines
- Applied Failure Analysis I, II and III
- Hydraulics
- Machinery & Equipment
- MSHA for Experienced Miners
- Powertrain
- Preventative Maintenance
- Air Conditioning for EPA Certification

iv. How will you accommodate various work shifts?

Empire will provide training and accommodate any shift the City of Tucson requires.

v. What type of documentation is provided with the proposed training?

Caterpillar's Delivery Service Record provides a check list that our CDI's follow at machine delivery orientation. Signatures on the form require a City of Tucson representative to confirm the list was reviewed and completed.

vi. Is a "train the trainer" program available?

Yes

Is this training different than the regular initial training?

Yes, the training curriculum is focused on the trainer and how to communicate proper techniques and safety, and why it's important. Initial training is focused on the student.

Can training sessions be recorded for future use by the agency?

Caterpillar does not permit recording, copying or transferring any of copyrighted material, either at our Operator Training Academy or customer sites. Empire maintains Caterpillar's proprietary information and copyright policies.

vii. Is the training provided by the manufacturer, dealer or both?

Both manufacturer and dealer can provide training.

5) Ordering and Invoices

a. Describe your order process.

Caterpillar Response

Understanding that dealers have been developing and maintaining customer relationships at the local level for more than 90 years, it is Caterpillar's intent to continue to support this proven model. It will be the local Dealer that will quote, deliver, receive payment and support the products in this proposal per the terms that have been outlined.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Machine invoices will be generated after receipt of a City of Tucson purchase order at Empire.

The invoice includes:

- Name of agency
- Department receiving if supplied on purchase order

- Contact name is supplied on purchase order
- Machine Serial Number
- Machine price
- Applicable taxes
- Freight from Empire to agency
- Machine configuration (if requested)

Machine payments are due 30 days after receipt of invoice.

Terms of our invoices are available at: www.empire-cat.com/salesserviceterms

b. How do agencies work with your firm to determine appropriate equipment needs?

Caterpillar Response

Dealers have sales and application specialists who can help an agency identify the best equipment option to fit the application. Once a need has been identified, it would be in the customer's best interest to consult with the local Dealer to determine the best possible equipment solution. Should additional expertise be required, Caterpillar has expertise within the company that can also provide assistance to ensure the most favorable outcome

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Initial contact will begin with our Sales Account Manager. A dealer Account Manager has extensive knowledge and experience in machine and attachment applications can assist the City of Tucson personnel in determining the best options.

Beyond this, the Account Manager will help the City of Tucson staff build a cost/benefit analysis to help illustrate why one machine or attachment was selected over other options. If the Account Manager believes the application question needs additional expertise, he is highly proficient at navigating Empire and supplier resources and bringing their expertise to bear.

Caterpillar has several software resources to help calculate cost per hour and cost per ton of machines, such as FPC or VET, to help users select the best machines, configurations and attachments. The Account Manager will utilize these resources to help the City of Tucson analyze options.

Additionally, if the Account Manager is asked to help research the best machine for an application and he believes that our offering is not optimum, and knows a competitive product or supplier that would be, he will explain why and help coordinate contact with the supplier, if requested by the City of Tucson. We recognize that not all of our offerings are the best and most economical fit for some applications and will readily explain so when we are asked to be part of the best solution analysis.

c. Describe the equipment delivery process and your delivery commitment.

Caterpillar Response

It will be the local Dealer that will quote, deliver, receive payment for, and support the products in this proposal per the terms that have been outlined.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Most products can be sourced from Empire's extensive inventory. Our configurations are based on the optimum feature utilization and most effective cost per hour in Empire's territory. In the past, most City of Tucson units have been custom ordered because of minor configuration differences. We feel that the City of Tucson will benefit from most of the configurations we stock. This benefit is in terms of: Time of delivery, higher potential productivity, and potentially lower operating costs.

In the event we need to order a machine, the manufacturer will provide Empire a "Ready to Ship" (RTS) date. Empire will estimate additional days based on subjective experience with that manufacturer's history of accurate RTS dates. Empire will also add expected freight time. Since there are various events beyond our control such as severe weather, strikes, or U.S. Custom holds at docks, a small percentage of our given delivery times can and do extend. Empire will alert the City of Tucson immediately if we believe a committed delivery date will extend and work out a solution if the need is urgent.

d. What is your standard equipment delivery timeframes?

Caterpillar Response

Depending on Dealer inventory, delivery can be as quick as a day, but depending on demand, orders from the factory may take as long as 180 days to deliver. In most cases Dealers have been able to commit to a less than 90 day delivery timeframe. However, timelines need to be confirmed for each purchase.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

If Empire's configuration is acceptable and we can supply from inventory, we can usually deliver in less than seven calendar days. If it is urgent, we will work nights and weekends to supply a unit sooner. A significant percentage of our deliveries happen in less than three working days from receipt of firm order.

The next source for machine availability is CAT's Product Distribution Centers (PDC). PDC's have their own configurations, but most are very close to the Empire configuration. If a machine from this source has acceptable configurations to the City of Tucson's request, these machines will usually ship within 7 days and arrive at Empire within 14 days.

Additionally, Empire works with nearly every CAT dealer in the United States for trading inventory. We have an excellent reputation of helping other CAT dealers

secure units from our existing inventory and our "on order" inventory. In other words, we give more than we take. These outstanding "chits" help us secure earlier delivery several times a year and can usually arrive within 10 days.

If a unit must be factory ordered, we have no standard delivery time frames. Caterpillar claims 65%+ of their units will be "Ready to Ship" within 12-16 weeks. Allied manufacturers have too many variables to provide relevant estimates here. If Empire is awarded this contract, they will be quoted as needed.

e. How does your firm communicate order cut off dates to your customers?

Caterpillar Response

Any questions with regards to an order will be addressed by the local supporting Dealer.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

For machines and attachments, the Empire Account Manager, will provide the City of Tucson with RTS estimates upon request.

Parts – Hours of Operation

When parts are needed, Empire has been the trusted and tested source to provide them, regardless of the time of day. In a crisis or emergency, Empire has the infrastructure and people in place to provide the parts that others cannot.

- Parts are available 24 hours/7 days a week/365 days a year
- Standard business hours for Empire's Parts Stores are:

  Monday – Friday from 7:00 a.m. – 5:00 p.m.

After hours/emergency parts service is available by calling a store's main number. (Provided in section 4, subsection 2 under "Dealer Response") This service is available anytime outside standard business hours. When a call is placed, an Empire parts representative will respond, locate the parts needed, and arrange to meet at the store for pick up.

f. Identify and describe any exceptions or challenges.

Caterpillar Response

Should an urgent US military equipment order be placed at the factory it will take precedence over any other customer orders which may delay the actual delivery of any non-military orders to the end user.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Historically, Empire's most common challenges in delivery of machines have been due to severe winter weather in the mid-west and U.S. Customs holds for freight shipments at U.S. shipping ports.

With regard to parts, Caterpillar/Empire has experienced challenges when suppliers to Caterpillar of a sub component part fails on hundreds of machines in a short time. A cascade of challenges begin at that point. Usually the manufacturer's parts supply is depleted and because of the unanticipated demand, the supplier cannot ramp up production of the correct part in the normal time most Caterpillar owners have come to expect.

Throughout our 65 year history, we have faced a number of these challenges. Customers want answers. Depending on the severity, it can take a few days to diagnose the root cause before we can begin to respond to repair affected machines.

Because of Arizona's unique geography, high elevations, hard material, and high ambient temperatures, many machine failures can show up in Arizona before the rest of the world experiences them. These events have taught us to maintain a hyper awareness of developing issues. Empire is usually the lead dealer to discover the issue and help Caterpillar (and other dealers) with the solution. These events help our staff stay highly vigilant in providing early identification and developing solutions for our customers.

g. Provide details of the capabilities of your E-Commerce website including ability to display contract pricing, on-line ordering, order tracking, search options, order history, technical assistance, lists, technical data and documentation, identification of alternate green products, etc.

Caterpillar Response

E-Commerce capabilities are set up at a local level with the supporting Dealer. Most Dealers allow online parts ordering and while it will vary based on the individual Dealer, many offer customer portals that allow communications specific a customers' account. This could include machine purchase and service history, maintenance schedules, technical documentation, condition monitoring and more. Please inquire locally to determine what services are available online.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Empire's website does not provide any machine pricing for this contract. Our website does provide pricing for used machinery and used parts.

Empire Parts store is an online service that allows you to order parts from your computer. Some of the benefits are:

- Order parts anytime 24 hours/7 days a week/365 days a year
- Ability to track your part orders
- Electronic parts book for ALL Caterpillar machines
- Frequent order lists
- Shows available exchange/remanufactured options
- Track outstanding core returns for credits due
- Purchase history

Additional options available from www.empire-cat.com are:

- Equipment Management
  - On-Line Fluids Lab (Oil Sample Reports)
    - Track History for each component or machine
    - Custom graphing/charting trends
    - View Empire recommendations
- Vision Link-Vital Machine Operating Information (For machines equipped with Product Link, see below for Product Link details)
  - Asset Utilization
    - Hours
    - Fuel
    - Operation
  - Current Location (Google Maps)
  - Health Watch
    - Fault Codes
    - Fluid Analysis
    - Inspections (Requires Mobile App)
  - Geo Fencing
  - PM Maintenance Tracking
  - Production Tracking (requires additional accessories)
    - Pay Load monitoring
    - Project monitoring
    - Mass haul monitoring
  - Vision Link also allows
    - Customized alerts
      - ✓ Type of alert and who is notified
    - Exporting data
    - Customize groups, sites and projects

Vison Link is the software end of the information from the machine sensor transmitted by Caterpillar Product Link. Product Link will be supplied on all qualifying Caterpillar machines. Along with Product Link hardware, Caterpillar provides three years free subscription.

Product Link can be dealer installed for a nominal fee, on machines that Caterpillar does not supply as standard equipment. Generally, Product Link will be included on medium to large construction class machines. With the exception of backhoes, or skid steers, it will be included on most common machines the City of Tucson is likely to purchase from this contract. By early 2017, we believe every Caterpillar product will come with Product Link from the factory.

Technical Assistance and Documentation

Caterpillar Electronic Technician (ET) features:

- Displays parameter status
- Displays active diagnostics

- Clear and view logged diagnostics
- Performs diagnostic tests
- Print reports and diagnostic results
- Perform calibrations
- Displays current totals information, i.e. fuel consumption, operating hours, etc.
- Integration to help files

Technical Information, Service Information Systems (SIS)

The following items are available from SIS WEB subscription at no additional charge to the City of Tucson as part of this proposal.

- Applied Failure Analysis
- As Shipped
- Custom Service Information
- Disassembly & Assembly
- Engine News
- Engine Performance Specs
- Engine Tool Guide
- General Service Information
- Kits Information
- Microfiche1
- Operation and Maintenance Manual
- Parts Identification
- Safety
- Schematic
- Service Magazine
- Special Instruction
- Specifications
- Systems Operation
- Systems Operation - Fundamentals
- Testing and Adjusting
- Tool Guide
- Tool Operating Manual
- Torque Specifications
- Truck Engine News

Empire Parts Service and Sales Representatives (PSSR) assigned to the City of Tucson will provide training with Caterpillar technical software. Product Support Sales Representatives work closely with all departments and divisions within Empire and will assist the City of Tucson with needs related to product issues and with navigating the Caterpillar product support offerings.

h. Describe your invoicing process. Is electronic invoicing available? Is summary invoicing available? Are there other options on how an agency receives an invoice? Submit sample invoices.

Caterpillar Response

Dealers can currently provide a pro-forma invoice prior to receipt of the actual invoice. Requests for electronic invoicing should be made to the selling Dealer. Not all Dealers are able to offer electronic invoices.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Is electronic invoicing available?

Machine invoices will be generated after receipt of City of Tucson purchase order at Empire. The invoice includes:

- Name of agency
- Department receiving if supplied on purchase order
- Contact name is supplied on purchase order
- Machine Serial Number
- Machine price
- Applicable taxes
- Freight from EMPIRE to agency
- Machine configuration (if requested)\

Machine payments are due 30 days after receipt of invoice. Terms of our invoices are available at: www.empire-cat.com/salesserviceterms

Is summary invoice available?

Yes

Are there other options on how an agency receives an invoice?

Invoices will be sent by mail, electronically or can be verbally requested for pick up.

Submit sample invoices.

Samples will be included in the attachment section of this RFP.

i. Describe how problems – such as a customer ordering a wrong product; a customer receiving a defective or wrong product; etc. – are resolved.

Caterpillar Response

In most cases working with the dealer account manager will alleviate any wrong order issues. In the event that this does not resolve the issue, the Dealer will work to resolve incorrect orders as cost effectively as possible.

Defective products are covered by manufacturer's warranty.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory

Dealer Response

As described in Caterpillar's response, in most cases working with Empire's Account Manager will alleviate wrong order issues. If Empire receives a purchase order and the quantity or configuration stated is, or seems not to be what was discussed, our Account Manager will attempt to notify both procurement and the user department, if procurement approves.

The vast majority of the time, we solve the issue at this stage. Errors of Empire's making are the responsibility of Empire. If the purchase order, or subsequent instruction in writing, is given by key personnel from the City of Tucson and Empire fails to correctly order the product, Empire will bear the expense of correcting it. If the item is in excess of what was ordered, Empire will remove it. If the item cannot economically be removed and it does not interfere with the production, safety, operator comfort or expose the City of Tucson to additional operational expense, Empire may elect to leave it on the machine at no charge to the City of Tucson.

j. Describe how your firm measures performance including identification, calculation, tracking and reporting of measurements.

Caterpillar Response (only)

Purchase orders received from a customer can be filled by an authorized dealer from inventory or by placing a new order from the factory. In either scenario, the customer will be advised about the timeline prior to delivery.

When sold, Dealers are obligated to report the sale to Caterpillar with detailed information about the sale. This creates a record in the corporate systems so that we are aware when a sale has been made to a governmental agency using this contract (National IPA).

Machine sales are only reported when the Dealer has input the transaction information into the system and the machine has been assigned to the respective industry. The sales are compiled monthly and reported back to National IPA.

k. Titles- will equipment be provided with proof of registration with the state?

Caterpillar Response (only)

Where appropriate, all titles will be provided with proof of registration with the state.

l. Will each product be delivered free of distributor advertising?

Caterpillar Response (only)

The buying agency and Dealer can determine what advertising is appropriate or not. There will never be a manufacturer requirement for the machine to carry a company decal/logo or to include distributor advertising.

6) Other

a. Describe any government rebate programs applicable.

Caterpillar Response (only)

No specific governmental rebate programs are currently available.

B. Price Proposal

1) Provide a Price Proposal. Submit the Price Proposal as a separate and clearly identified document. The Price Proposal shall minimally include the following: Offerors shall submit pricing based on the Equipment, Product Requirements and Service Requirement categories identified on the Scope of Services. Pricing should be based upon a verifiable pricing structure, such as a fixed percent discount from an index or indices or established price list, etc. Where applicable, Offerors shall provide pricing for all product and services offered. Describe how pricing is determined for a base model equipment purchase and how pricing is determined for options, accessories and services. Identify the price list being used and include an electronic copy (or website link) so that net prices can be determined.

The price proposal should include pricing for equipment, accessories and options, parts, service and any additional value-add goods or services available such as financing, rental and used equipment for purchase from the vendor. Vendors must indicate if discounts are based on manufacturer price lists or dealer price lists.

In order to allow ordering flexibility for equipment that is mounted to a chassis, Offerors should provide a separate pricing structure for each the chassis and the truck, in addition to a total pricing structure for the complete piece of equipment.

Caterpillar Response

Each Caterpillar machine model will be assigned specific discount off the manufacturer's published list price for that particular machine and or piece of equipment. This discount will be extended to all additional options from the machine / option price list that are requested by the customer and become part of the final machine configuration. The published list price for the base machine and/or any additional options included in the published machine / option price list will be considered the maximum price for the specific final machine configuration. The associated discount will be considered the minimum discount that the local supporting Dealer has agreed to honor. It is our intention to

provide the contract administrator with the City of Tucson with password protected access to our price lists housed on a secure internet platform. This ensures price lists will always be up to date.

Any additional items above and beyond those included in the Caterpillar Price Lists such as prep, extended warranties, delivery costs, customer service agreements, pre-delivery and installation, will be priced at the supporting Cat Dealer's discretion.

Financing for new and used Caterpillar products is available through a variety of financial products including Installment Sales Contracts, Finance Lease and Off Balance Sheet Operating Lease contracts. Rates and terms will be determined locally.

In an effort to provide even more customer solutions, Caterpillar will be supporting a special Used Equipment program for customers that choose to purchase products using this contract. With the exception of Cat work tools, Caterpillar will be extending a 20% discount off the original list price of used Caterpillar equipment that is currently in the Dealer's rental fleet that the Dealer agrees to sell. At their discretion, Dealers will have the ability to extend this program to customers for the purchase of work tools. Please note that this used program is subject to availability.

Parts, service work and rental is also available through this contract. There is no national price list for these options and as such prices will be determined locally based on volume of purchases and prevailing rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

CONFIDENTIAL – Request confidential treatment –

Empire Machinery and other dealers across North America, who choose to participate, offer the following parts, service, rental, and accessories discounts as part of RFP#161534.

Dealer Related Parts, Service, Rentals and Accessories	Minimum List/Card Discount
Rental Rate Discount	15%
Used Machines Purchase Discount	20%
GET (Ground Engaging Tools) Discount	25%
Filter Discount	20%
Fluid Discount with TM&R (Total Maintenance & Repair)	14%
Undercarriage Discount	15%
Power Systems Rental Rate	15%
Power Systems Used Purchase Discount	20%
Used Work Tools	14%

2) Based on your distribution network, explain how freight is calculated.

Caterpillar Response

The freight and delivery costs vary by product and will be quoted separately. Our products are manufactured in locations around the globe and vary considerably in size and weight so costs to transport our products to the selling dealer will vary widely.

If the customer chooses to have the Dealer deliver those machines to the purchaser's location the cost would be calculated based on the distance from the Dealer's place of business. The Dealer will quote actual shipping and prep costs for each machine quoted through this contract.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Freight is calculated in three different manners, depending on model, for Caterpillar:

- Caterpillar Included in Price: On most small products Caterpillar defines as BCP, such as Skid Steers, Backhoes, Telehandlers, and Mini Excavators, freight is included in the list price and is not a line item on the price list. Caterpillar dealers have zero control on this process. Caterpillar models handled in this manner are referenced as "FOB Dealer" in the Caterpillar price pages.

- Caterpillar Managed Freight: On some regional type models such as medium Excavators, Caterpillar will add the freight to the invoice. Caterpillar dealers have zero control on this process. The cost to Empire, for this particular model, is noted specifically in the Caterpillar price pages.

- Empire Quoted: Empire is responsible for the freight from either the factory or the port. Empire utilizes an RFP to quote pricing in advance for each of these models. Five to seven national freight companies compete against each other using this bid system. Empire will use this pricing methodology to determine the freight on each individual model.

- Allied Products: Allied freight varies from manufacturer to manufacturer. Some provide managed freight; some quote dealers "FOB" their factory. Empire will provide a written quote from the vendor at time of quotation to recapture these freight costs.

  Empire does not "mark-up" or profit from freight. This is a "pass through" expense to the City of Tucson.

3) The discount structure provided by the supplier is intended to remain constant throughout the term of the Contact. Discuss how often price lists are updated and provide a listing of price list changes that have taken place over the last 3 years. Discuss any known future price list changes or industry changes that will effect pricing over the next 5 years.

Caterpillar Response

CONFIDENTIAL – Request confidential treatment –

Several factors will come into play when looking at possible price adjustments. Given that our machines and their components are largely made up of a variety of metals, commodity prices will have a significant impact on how pricing is adjusted moving forward. Combined with the fluctuation in fuel cost, rubber prices as well as the cost associated to the development of technologies associated to meeting emissions regulations, we expect the prices of heavy equipment to continue to rise. With this uncertainty, Caterpillar is asking that the most current published pricing, Caterpillar's suggested Consumer Price List, be that which is used in the quotation of equipment for this contract by the supporting Dealers. Failure to do so may limit Caterpillar's ability to commit to the pricing terms as outlined in this solicitation.

Typically, price changes go into effect on the first business day of the calendar year. However, Caterpillar reserves the right to adjust prices up or down as needed with an understanding that price changes may impact purchase intentions.

In a rare situation where Caterpillar determines a need to make price list corrections/reductions we reserve the right to adjust discount structures as long as that discount change is not detrimental to the customer.

With more than 300 products, Caterpillar introduces new products and removes outdated products periodically throughout the year. Caterpillar will provide the City of Tucson an updated equipment list and discount structure when these changes take place.

Past and Future Price Increases

JAN2014:	0 to 3%	plus 0 to 5% if emissions related, and -14% on WHEX
JAN2015:	-2 to 4%	plus 0 to 4% emissions related
JAN2016:	-4 to 4%	plus 3% emissions on D6K, 815 and 816
JUL2016	0 to 2%	some paving equipment only
JAN2017:	0 to 4 %	

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

CONFIDENTIAL – Request confidential treatment –

Empire will honor our discount from Caterpillar list prices to the City of Tucson for the term of the awarded contract. However, as a dealer we have no control over when the manufacturer announces price increases or how much those increases will be. Over the last three years, the prices have changed hundreds of times. To avoid overwhelming this proposal with hundreds of example price increases, Empire will provide examples of the price increases associated with the seven Caterpillar models we have included below.

Typically, in September, Caterpillar announces an annual price increase that will affect machines and work tools shipping after January 1st of the following year. This is not based on order date, but ship date. If a tractor is ordered in August and is not going to ship until January, the tractor would be subject to the price increase for that model announced in September.

The price increase sheet is detailed by model and Empire has experienced price increases ranging from -1% to +8% over the past three years. In this time frame, Caterpillar has announced one mid-year price increase. It was announced approximately 90 days before taking effect and was rolled out as described above.

In regards to price list changes, Caterpillar modifies the price pages often. These adjustments affect base price, configuration item price, internal vendor change causing a reference number change, etc.

Listed below is the number of times Caterpillar made price adjustments between 01/01/2016 and 08/10/2016:

120M:	22 Price List changes
M316D:	15 Price List changes
D6K:	19 Price List changes
308E:	23 Price List changes
930:	36 Price List changes
12M2 AWD:	6 Price List changes
CB22:	11 Price List changes

Prior to 2006, most price increases followed the commodities markets of primarily oil and iron. Historically, this was a predictable 2%-3% per year. The most significant changes in pricing since 2006 have been the expense of manufacturers adding EPA emissions compliance packages. Some machines experience as much as +8% in 12 months.

We expect Caterpillar will return to a more stable range of price increases that more generally follow the U.S. inflation rate. The long range indicators/indices for predicting construction machinery will continue to be U.S. labor rates, and energy and steel. As one of the largest steel consumers in the world, Caterpillar blends long and short term contracts on steel and other commodities to help absorb shocks to these markets, in an effort to help its dealers and customers adjust. At the time of this writing, Empire does not anticipate significant changes that would affect the expected return to standard 2%-3% annual price increases.

4) State if pricing is most favorable offered to government agencies. Describe how your firm will ensure this contract will continually offer the best pricing available to Participating Public Agencies.

Caterpillar Response

Dealers are independent businesses and Caterpillar does not dictate pricing. It is the intent that with the "Maximum Price / Minimum Discount" model, that all Dealers will have the flexibility to extend the lowest competitive price to the agencies who choose to use the contract. Manufacturer's incentives may be periodically provided and may be regionally based.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Above and beyond the discounts stated in the price proposal/discounts section of this RFP, Caterpillar or Allied manufacturers may offer additional discounts beyond the minimum table. These incremental discounts may be short term (seasonal) programs or multiple unit discounts for a single transaction.

Incremental or additional discounts come from cycles of increasing or decreasing demand from the marketplace. If a manufacturer cannot produce the quantities to supply the opportunity, their incremental discounts are usually zero. Conversely, if they are targeting a new product, have over produced, or feel they are losing crucial market share in a region, they may offer dealers a temporary or seasonal additional discount with the intent it will incentivize dealers to stock more, or end users to pull purchases forward.

In the event additional or incremental discounts are available, Empire will pass these discounts on to the City of Tucson when "current" pricing quotes are requested. These quotes will show the contract minimum discount along with any additional or incremental discount and their expiration dates. These incremental discounts are usually labeled as "incentives" and they can have a very short life. Empire will explain to the City of Tucson their origin, amount and termination date.

Occasionally, Empire can negotiate termination extensions when the City of Tucson wants to take advantage of an incremental discount, but requires additional time to secure funding and approval. Empire is compelled to add: "Occasionally" means we are successful at securing extensions fewer times than not.

5) Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

Caterpillar Response (only)

No additional volume rebate program is included in this proposal, however customers and their local Dealer may enter into agreement for additional discounts and or other value added provisions within the spirit of the "Maximum Price / Minimum Discount" model for volume purchases that are in line and conform to all the terms and conditions covered by the contract.

6) Provide information on any ordering methods – such as electronic ordering or payment via pCard or EFT – or other criteria which entitle the using agency to additional discounts.

Caterpillar Response (only)

None available at this time.

7) As stated in the Instructions to Offerors, 7. Discounts, the price(s) herein can be discounted by _0_ %, if payment is made within 0 days. These payment terms shall apply to all purchases and to all payment methods.

8) Will payment be accepted via commercial credit card?__Yes _X*_No

a. If yes, can commercial payment(s) be made online? __Yes ___No
b. Will a third party be processing the commercial credit card payment(s)? __Yes __No
c. If yes, indicate the flat fee per transaction $____(as allowable, per Section 5.2.E of Visa Operating Regulations).
d. If "no" to above, will consideration be given to accept the card? _X*_Yes __No

Caterpillar Response (only)

*Commercial Credit Card acceptance (online or in person) is in the Dealer's discretion. Not all dealers will accept payment by credit card. Limits and conditions may be imposed by the local Dealer.

Dealers, either independently or in conjunction with Cat Financial may offer lines of credit to governmental purchasers.

9) Does your firm have a City of Tucson Business License? __X__Yes _X__ No

a. If yes, please provide a copy of your City of Tucson Business license.

Caterpillar Response

Caterpillar is proud to have a large presence in the City of Tucson as we recently relocated a major division with 600+ employees to the city. However, that office conducts no retail business and as such does not hold a business license. Please refer to supplemental documents which includes email confirmation from City of Tucson taxing authorities.

The local Dealer, Empire Machinery, has a City of Tucson Business license.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

A copy of the City of Tucson Business License issued to Empire Southwest LLC (dba Empire Machinery) is included in the attachments section of this RFP.

C. Qualifications & Experience

1) Provide a brief history and description of your company. Describe your market position in the local government, educational and medical market spaces.

Caterpillar Response (only)

For more than 90 years, Caterpillar has been making sustainable progress possible and driving positive change on every continent. Customers turn to Caterpillar to help them develop infrastructure, energy and natural resource assets. With 2015 sales and revenues of $47 billion, Caterpillar is the world's leading manufacturer of construction and

mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. The company principally operates through its three product segments - Construction Industries, Resource Industries and Energy & Transportation - and also provides financing and related services through its Financial Products segment. The Caterpillar Dealer organization has been a key component of Caterpillar's success. Caterpillar subscribes to the philosophy we need our dealers, and our customers to be successful, in order for us to continue to grow profitably. It's a symbiotic relationship where all benefit when all grow together. This success is evident in the fact that many of our dealer s have been owned by the same family for multiple generations.

Caterpillar is a leader in the heavy equipment business. This leadership also extends to sales to governmental agencies.

One of the largest factors for Caterpillar's continued success is that our customers have realized that they get the best overall value when they purchase Caterpillar. When considering the total cost of ownership, it's important to include the following factors. For any specific product, the Dealer would be able to provide detailed information tailored to the local market.

- Operating costs (include fuel burn, a key trait for which Caterpillar is broadly considered most efficient)
- Maintenance costs
- Repair costs
- Safety design and performance
- Productivity
- Ease of operation
- Reliability
- Resale value

2) Describe your dealer network and their role in providing products and services under this contract.

Caterpillar Response (only)

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance, payment receipt and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective territories.

Specific information about dealers is located on
http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealer network currently employs over 46,000 total employees. 5,500 of these employees are dedicated to machine sales. Many dealers have enough opportunity in the governmental market to employ sales people whose careers are dedicated to and specialized in the governmental industry. Approximately 70% of dealer employees are dedicated to product support. The Cat dealer network

brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

3) Provide a listing of key personnel who will be assigned to the City's contract. Include their title within your organization and the description of the type of work they may perform. Please identify an executive corporate sponsor who will be responsible for the overall management of the awarded Master Agreement.

Caterpillar Response

Nationally, the contract will be managed by:

Patty Redpath
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory for specific contacts for the City of Tucson.

Dealer Response

For all support related to this contract, please contact:

Clinton Swapp
Sales Account Manager
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8213
Cell: 520-240-8213
Email: Clinton.Swapp@empire-cat.com

Ty Robertson
Product Support Sales Representative
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8226
Cell: 520-269-1171
Email: Ty.Robertson@empire-cat.com

4) Summarize your experience in providing equipment, products and services similar to that outlined in the Scope of Work. Provide a minimum of three references for which you have provided similar products and services. References from other public agencies, particularly municipal governments, are preferred. Please include company name, address, phone, email, and contact person.

Caterpillar Response

For the last 90 years, Caterpillar's principal line of business has been the manufacture, sales and support of construction equipment. Throughout our history we have worked in close consort with our authorized dealers and that successful model has not substantially changed since its inception.

We have many satisfied customers in public agencies and refer you to Empire Machinery's response for three local agencies who are pleased with their support.

It is also important to reference the working partnership between Caterpillar, Empire Machinery, City of Tucson and National IPA for the past five years. The performance under contract #120377 is evidence of a strong and successful relationship. It is our desire to maintain this high level of cooperation as we move forward under this new RFP. We are deeply appreciative of the confidence placed in our machines and service and we value your business. We will do everything possible to maintain your trust as we look to forward to mutually beneficial contract going forward.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory for local customer references.

Dealer Response

References:

City of Phoenix
Contact: Bonnie Shockley, Equipment Control Specialist
2441 S. 22nd Ave., Phoenix, AZ 85009
602-534-2129
bonnie.shockley@phoenix.gov

Maricopa County
Contact: Gidget Vigil, Equipment Manager
3325 W Durango St. Phoenix, AZ 85009
602-506-4674
gidgetvigil@mail.maricopa.gov

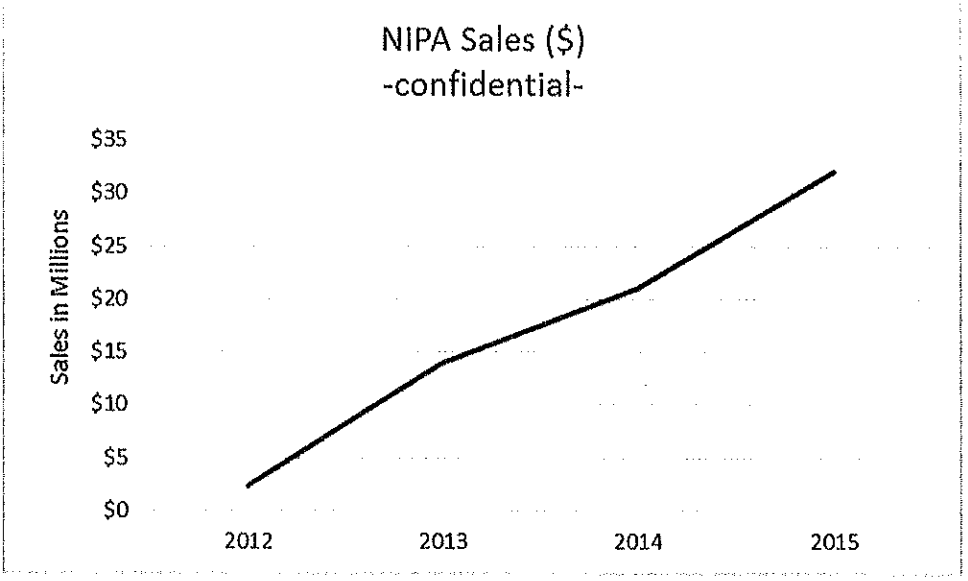
Cochise County
Contact: Ruben Miranda, Internal Services Administrator
1151 W Hereford Road. Bisbee, AZ 85603
520-432-8391
rmiranda@cochise.az.gov

5) Please submit any additional information that you feel is applicable to your qualifications and experience.

Caterpillar Response (Only)

- CONFIDENTIAL – Request confidential treatment –

Our success with the National IPA partnership has been outstanding. Our internal sales support staff as well as our dealers embrace the concept and fully understand how to use the program. Our results since signing the contract in 2012 have been impressive as the chart below demonstrates:



Please also refer to vendor's response section 2015 Year In Review

6) Provide the qualifications of technicians that will be servicing equipment throughout the nation.

Caterpillar Response

All Dealers employ highly trained and experienced technicians that have completed numerous factory training programs. Each dealer can expound on their own specific requirements but overall our technician capability is excellent.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire Machinery's response is for Empire's territory only. All CAT dealers employ service personnel, with all levels of experience, but will vary from dealer to dealer.

Empire employs over 540 trained technicians throughout Empire's territory. These technicians are highly trained and the majority have job site experience in all industries including, but not limited to:

- Landfill
- Governmental
- Heavy Construction
- Highway / Road Construction
- Paving
- Mining
- Forestry
- Agriculture
- Power Generation
- Quarries & Aggregates
- Residential Construction
- Recycling

Additional Services Information

Empire Machinery provides the largest investment of any competitor in the following areas.

Service: Empire provides the largest number of both shop and field technicians in the State of Arizona. From the best data we can gather, we have more staff in each of the service areas than all of our competitive vendors combined.

Empire Service Capacity Statistics (statewide):

- Field Service Technicians: 190+
- Service Trucks: 300+
- In Shop Technicians: 330+
- Technical Communicators: 13
- Service Managers: 27+ (all former shop or field technicians)
- 90 Shop Leadspersons
- 40+ Welders
- Average length of time in Service for all technicians: 10.5 years
- Many technicians in EMPIRE's stores have over 25 years' experience for other technicians to draw from

Years of experience in service staff are important to the customer. One of the highest costs of Ownership and Operating (O&O) costs is downtime. The faster a vendor can dispatch and arrive at a down machine (based on truck fleet capacity), trouble shoot the problem (based on experience, access to information or additional expertise), select and confer repair options with the customer, repair the machine (based on truck tool box capacity), only then can the absolute lowest expense be achieved, returning the machine to production.

It is difficult to quantify savings from assessing truck capacity and capability when trying to compare one vendor to another. The parts and labor expense in the cost of a work order are easier to compare and tend to be what receives focus rather than the difficult task to determine downtime expense or savings. The primary mission, and Empire's extensive investment in our Parts and Service Departments, is focused on reducing downtime expenses while being as efficient as possible.

Value Added Support Services

The ability of the local dealer to provide value added support services is an important consideration in the purchase of heavy equipment. Empire provides many of these value added services to reduce the operating cost and risk of machine ownership.

The following is a summary of Empire's value added services:

- Tractor Machining – With tremendous capacity for component restoration and repair, reuse and rebuild of machine components (ISO9000/2001 Certified)
- Empire Hydraulic Service – Operating multiple shifts and capable of full service for all hydraulic brands (ISO/9000/2001 Certified)
- Empire Transport – Heavy haul with a fleet of 60 trucks and capable of hauling loads up to 180,000 lbs. in the event of any emergency

- Empire Training Institute – Provides both technical and non-technical training programs for EMPIRE employees, customers and other Caterpillar dealers via classroom and web-based training courses
- Technology Products and Services – Sitech Southwest, a wholly owned subsidiary of Jeff Whiteman (CEO of EMPIRE), offering a full range of technology solutions and technology support.
- Wear Analysis – Empire's own laboratory, processing 120,000 samples annually (ISO9001; 2001 Certified). The wear analysis allows a customer to repair a component or tractor before failure.
- In-Shop Services – With multiple shifts, over 400 factory certified technicians and EMPIRE's capability as the largest powertrain rebuild dealer in North America.
- Field Service Capability – 24 hours/7 days availability of over 300 field service trucks, along with EMPIRE's most experienced technicians (12 years average experience)
- Empire Power Systems – Provides turnkey solutions, service and temporary power for data centers, life support systems, telecommunication and construction. Empire also offers reliable, cutting edge solar solutions to commercial customers.

7) Describe your quality control program including but not limited to: what is your quality control procedures, who performs the quality control inspection? What are the qualifications of the inspectors? What items are inspected / tested? Etc.

Caterpillar Response (only)

Quality levels are at the highest in company history. In 2013, Caterpillar implemented Lean methodology. Lean is built on a strong foundation of 6 Sigma and Caterpillar Production Systems (CPS). Lean is how Caterpillar eliminates waste and drives efficiencies. By standing up quality gates throughout the production processes, Caterpillar can stop defects – first by catching them at the quality gates, and then by eliminating them. Lean has been deployed at more than 94 production facilities throughout the enterprise.

In the production facilities, qualified technicians perform a battery of tests to ensure that the products leaving Caterpillar plants are operating to the outlined specifications before delivery to the customer. These tests cover the electronic system, hydraulic systems, and powertrain systems on every machine we build. In addition to static testing procedures, trained operators perform a series of road tests and simulated operational maneuvers in dedicated locations at the plant prior to shipment. Should a machine exhibit any functional issues or fail a quality control benchmark at any point in the manufacturing process, the production line will either be shut down to remedy the issue or the machine will be removed completely from the production line. The unit will then be assigned a specific troubleshooting cell to perform the necessary corrections or repairs at which point it will be re-subjected to the battery of tests until such time it meets Caterpillar's quality control standards.

Upon arrival at a dealership a detailed pre-delivery inspection will be performed. Deviations from expected condition or operational performance will be noted, reported and corrected before delivery. It is also recommended for the customer to inspect the machine prior to first use.

Account : CATERPILLAR INC.

D-U-N-S® Number: 00-507-0479 - CATERPILLAR INC.
Account Number: CAT1
Trade Names: CATERPILLAR
Endorsement/Billing Reference: Wilson_Alex_D@cat.com

D&B Address	
Address	100 Ne Adams St Peoria, IL, US - 61629
Phone	309 675-1000
Fax	309-675-1076
Location Type	Headquarters
Web	www.caterpillar.com

Account Address	
Address	100 NE ADAMS ST PEORIA, IL, US - 616290001
Phone	309-675-1000
Fax	309-675-1076

Assigned to: Credit Department
Account Created: 08/31/2016
Last View Date: 10/05/2016
Last Review Date: 10/05/2016
Last Import Date: 08/31/2016
Endorsement : Wilson_Alex_D@cat.com

Company Summary

Currency: Shown in USD unless otherwise indicated

Score Bar

Credit Limit	**Unavailable**	
Credit Limit - D&B Conservative	**1,000,000.00**	Based on profiles of other similar companies.
Credit Limit - D&B Aggressive	**1,000,000.00**	Based on profiles of other similar companies.
PAYDEX®	**70**	Paying 15 days past due
Commercial Credit Score Percentile	**39**	Moderate Risk of severe payment delinquency.
Financial Stress Score National Percentile	**67**	Moderate Risk of severe financial stress.
D&B Viability Rating		View More Details
Bankruptcy Found	**No**	
D&B Rating	**5A3**	5A indicates 50 million and over, Credit appraisal of 3 is fair

Account Review Reasons

Status: Credit Increase Recommended **Credit Increase Recommended:** An automated review triggered a recommended action of "Credit Increase Recommended" on 10/05/2016. D&B was your source of business information to make this decision.

The **"Low Risk 2-3.99"** rule triggered this review because of the following conditions:

Condition	Value
Cat Existing Scorecard Is Between 2.00 AND 3.99	3.85

Based on the "Credit Increase Recommended" rule the

credit terms are :

	Recommended	Latest Actual
Credit Limit	50,000.00	Not Set
Payment Terms	Net 30	Not Set
Early Payment Discount	Not Set	Not Set
Analyst Instructions	No instructions provided for this Review.	No instructions available.

The recommended credit terms were based on the following:

Condition	Value
Account ReviewRule	Credit Increase Recommended Rule

The following information was used to calculate the CLM:

Expression: (Caterpillar Input 3) * 5

▸ Previous 10 Credit Terms

Credit Terms prior to review on 10/05/2016

Credit Limit	50,000.00	Not Set
Payment Terms	Net 30	Not Set
Early Payment Discount	Not Set	Not Set
Analyst Instructions	Not Set	Not Set

Financials Statement Source: EDGAR | Interim | 06-30-2016

Credit Terms prior to review on 08/31/2016

Credit Limit	50,000.00	Not Set
Payment Terms	Net 30	Not Set
Early Payment Discount	Not Set	Not Set
Analyst Instructions	Not Set	Not Set

Financials Statement Source: EDGAR | Interim | 06-30-2016

Detailed Trade Risk Insight™

Days Beyond Terms Past 3 Months

7
Days

Dollar-weighted average of **1128** payment

experiences reported from **239** Companies

Recent Derogatory Events

	Aug-16	Sep-16	Oct-16
Placed for Collection	-	-	500 on 1 acct
Bad Debt Written Off	-	-	-

D&B Viability Rating

1	**Viability Score: 1**
3	**Portfolio Comparison: 3**
A	**Data Depth Indicator: A**
4A	**Company Profile: A**

Financial Data	Trade Payments	Company Size	Years in Business
Available	Available (3+Trade)	Large	Established

Company Overview

This is a headquarters location

Branch(es) or Division(s) exist	Y
Chief Executive	DOUGLAS R OBERHELMAN, CHB-CEO
Stock Symbol	CAT
Year Started	1925
Employees	105700 (1176 Here)
SIC	3531 , 3519
Line of business	Mfg construction & mining equipment, diesel & natural gas engines, industrial gas turbines, & diesel-electric locomotives
NAICS	333120
History Status	CLEAR
Financial Condition	GOOD

Stock Performance

CAT : **89.50** ↑ 2.00 (2.28%)

Previous Close: 87.52

Volume: 4197372.00

Daily High: 89.88

Daily Low: 88.05

52-Week High: 89.20

52-Week Low: 56.37

P/E: 57.3718

Market Cap: 52,288,690,700

EPS: 1.56

Div/Yield: 3.45

FirstRain Company News

- **New Cat R1700K underground loader designed**
  2016-10-05T09:22:06 AKDT 9:22 AM-Mining
- **YieldBoost Caterpillar From 3.5% To 5.8%**
  2016-10-05T08:06:23 AKDT 8:06 AM-NASDAQ.com
- **Better Buy: Caterpillar Inc. vs. Illinois Tool**
  2016-10-05T07:50:24 AKDT 7:50 AM-FOX Business
- **Caterpillar Inc. (CAT) Stock Did Its Job. Cut**
  2016-10-05T04:07:36 AKDT 4:07 AM-Investor Place
- **Kim Hauer pursues new opportunity**
  2016-10-05T02:18:07 AKDT 2:18 AM-World Coal
- **Caterpillar : Exhaust Manifold for Caterpillar**
  2016-10-05T00:00:30 AKDT 12:00 AM-4-Traders
- **SAE International to Honor Caterpillar VP**
  2016-10-04T20:29:45 AKDT 8:29 PM-Houston
- **How Middle America became Trump country**
  2016-10-04T15:36:27 AKDT 3:36 PM-MSN CA
- **Caterpillar Inc. Files Forms 4**
  2016-10-04T15:09:06 AKDT 3:09 PM-PR Newswire
- **H.O. Penn Holds SITECH Demo Open House at**
  2016-10-04T11:55:54 AKDT 11:55 AM-Construction
- **Caterpillar Oil & Gas launches G3516J gas**
  2016-10-04T08:35:37 AKDT 8:35 AM-Oil Review
- **Caterpillar Factory Purchased by MN Company**
  2016-10-03T22:49:06 AKDT 10:49 PM-WTAQ
- **Caterpillar : CAT 794 AC MINING TRUCK**
  2016-10-03T08:05:31 AKDT 8:05 AM-4-Traders
- **Seeing Machines receives Caterpillar boost**
  2016-10-02T23:08:46 AKDT 11:08 PM-ProActive
- **Caterpillar, Inc. (NYSE:CAT) Is Expected To**
  2016-10-02T10:17:36 AKDT 10:17 AM-Realist

- Caterpillar : $313,154 Federal Contract
  2016-10-01T04:05:36 AKDT 4:05 AM-4-Traders
- Peoria business benefits from laid-off
  2016-09-30T07:54:26 AKDT 7:54 AM-Pekin
- Caterpillar: Did Cramer Call A Top?
  2016-09-30T06:21:47 AKDT 6:21 AM-Seeking Alpha
- Cat's exit no disaster after all
  2016-09-29T19:16:39 AKDT 7:16 PM-The Advocate
- Caterpillar (CAT) Announces Price Action of
  2016-09-29T13:18:54 AKDT 1:18 PM-
- Caterpillar Wins 2016 ANNY Excellence In
  2016-09-29T12:30:44 AKDT 12:30 PM-SeattlePi.com
- Caterpillar Uptrend Faces Major Obstacles
  2016-09-29T11:49:21 AKDT 11:49 AM-
- Caterpillar no longer a dog, rising 7% in two
  2016-09-29T09:02:13 AKDT 9:02 AM-Seeking Alpha
- Caterpillar Affirms Commitment to Egypt's
  2016-09-29T07:55:51 AKDT 7:55 AM-Caterpillar Inc.
- Jim Cramer -- It's Time to Stop Betting Against
  2016-09-29T06:31:21 AKDT 6:31 AM-The Street
- Caterpillar Inc. (CAT) Surged To A New High
  2016-09-29T03:31:45 AKDT 3:31 AM-RTTNews
- Congratulations to the Winners of San
  2016-09-28T20:53:39 AKDT 8:53 PM-Austmine
- Caterpillar Inc. (CAT) Shares Sold by
  2016-09-28T18:47:56 AKDT 6:47 PM-The Olympia
- Asphalt compaction seeing major technical
  2016-09-28T16:19:02 AKDT 4:19 PM-World
- Wall Street closed in the green again on OPEC
  2016-09-28T12:58:27 AKDT 12:58 PM-Forex Street
- Caterpillar Is Breaking Out to New Highs -- and
  2016-09-28T10:12:32 AKDT 10:12 AM-The Street
- Infocast's 4th Additive Innovation Summit
  2016-09-28T08:03:51 AKDT 8:03 AM-PRWeb
- How's Caterpillar Doing? Check These 2
  2016-09-28T07:13:08 AKDT 7:13 AM-The Street
- Caterpillar : 35TH ANNIVERSARY OF THE CAT
  2016-09-28T07:07:33 AKDT 7:07 AM-4-Traders
- Caterpillar : NEW CAT PROXIMITY
  2016-09-28T07:03:09 AKDT 7:03 AM-4-Traders
- 2 New Equity REITs In My 85 Stock Portfolio:
  2016-09-28T00:37:13 AKDT 12:37 AM-Seeking
- MCFA appoints Towlift as Pittsburgh dealer
  2016-09-27T09:43:34 AKDT 9:43 AM-Refrigerated &
- Excited About Caterpillar Inc.'s Latest Big Buy
  2016-09-27T03:37:21 AKDT 3:37 AM-FOX Business

- 2016-09-27T03:12:44 AKDT 3:12 AM-The Street

- **Caterpillar Goes Beyond the Iron at MINExpo**
  2016-09-26T13:06:21 AKDT 1:06 PM-CNBC

- **NowNS: International experience makes local**
  2016-09-26T11:04:45 AKDT 11:04 AM-The Chronicle

- **Caterpillar eyes a brighter future ahead of**
  2016-09-25T20:41:21 AKDT 8:41 PM-Mining

- **Caterpillar (world's No.1 heavy machinery**
  2016-09-25T18:06:38 AKDT 6:06 PM-NASDAQ.com

- **Caterpillar sees green shoots in mining, but**
  2016-09-24T16:43:38 AKDT 4:43 PM-MINING.com

- **Caterpillar Gives the Gift of Power to St. Luke's**
  2016-09-24T15:20:45 AKDT 3:20 PM-PR Newswire

- **American workers out, foreign workers in**
  2016-09-23T13:18:23 AKDT 1:18 PM-

- **Caterpillar Vice President Kim Hauer to Pursue**
  2016-09-23T07:55:18 AKDT 7:55 AM-Caterpillar Inc.

- **Nick in the AM: At least one media source**
  2016-09-23T05:51:23 AKDT 5:51 AM-The Peoria

- **From manufacturing to innovative design**
  2016-09-23T00:32:54 AKDT 12:32 AM-Engineers

- **QUT to Lead a Project with Caterpillar for**
  2016-09-22T18:53:23 AKDT 6:53 PM-Austmine

Powered by FirstRain

Public Filings

The following data includes both open and closed filings found in D&B's database on this company.

Record Type	Number of Records	Most Recent Filing Date
Bankruptcies	0	-
Judgments	0	-
Liens	1	03/06/07
Suits	4	03/11/16
UCCs	722	08/09/16

The public record items contained herein may have been paid, terminated, vacated or released prior to today's date.

Predictive Scores

Currency: Shown in USD unless otherwise indicated

D&B Viability Rating Summary

The D&B Viability Rating uses D&B's proprietary analytics to compare the most predictive business risk indicators and deliver a highly reliable assessment of the probability that a company will go out of business, become dormant/inactive, or file for bankruptcy/insolvency within the next 12 months. The D&B Viability Rating is made up of 4 components:

1	Viability Score	Lowest Risk:1	Highest Risk:9

Compared to All US Businesses within the D&B Database:

- Level of Risk: **Low Risk**
- Businesses ranked 1 have a probability of becoming no longer viable: **0.2 %**
- Percentage of businesses ranked 1: **0.3 %**
- Across all US businesses, the average probability of becoming no longer viable: **14 %**

3	Portfolio Comparison	Lowest Risk:1	Highest Risk:9

Compared to All US Businesses within the same MODEL SEGMENT:

- Model Segment : **Available Financial Data**
- Level of Risk: **Low Risk**
- Businesses ranked 3 within this model segment have a probability of becoming no longer viable: **0.2 %**
- Percentage of businesses ranked 3 with this model segment: **15 %**
- Within this model segment, the average probability of becoming no longer viable: **0.6 %**

A	Data Depth Indicator	Predictive Data:A	Descriptive Data:G

Data Depth Indicator:

- ✓ Rich Firmographics
- ✓ Extensive Commercial Trading Activity
- ✓ Comprehensive Financial Attributes

A	Company Profile	Financial Data	Trade Payments	Company Size	Years in Business
		Available	**Available** (3+ Trade)	**Large**	**Established**

Company Profile Details:

- Financial Data: **Available**
- Trade Payments: **Available** (3+ Trade)
- Company Size: **Large** (Employees: 50+ or Sales: $500K+)
- Years in Business: **Established** (5+)

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Certificate of Insurance

Statement of Insurance

From: *Corporate Property and Casualty Finance Services Division Caterpillar Inc. & Subsidiaries*

Re: *Verification of Casualty Insurance Program*

Caterpillar Inc. assumes a major retention for its general liability exposures (including product liability) and auto liability exposures (except where required by state statute). This retention is consistent with Caterpillar's net worth and cash flows.

If Caterpillar's net worth drops below $1 Billion, insurance certificates will be issued. Caterpillar Inc. has in place catastrophic excess liability coverage.

Please contact (309) 675-4645 if you have any questions.

CATERPILLAR®

Certificate of Insurance

Statement of Insurance

From: *Corporate Property and Casualty Finance Services Division Caterpillar Inc. & Subsidiaries*

Re: *Verification of Property Insurance Program*

Caterpillar Inc. assumes a major retention for its corporate property exposures. This retention is consistent with Caterpillar's net worth and cash flows. Catastrophic protection purchased is consistent with other corporations of our size.

Caterpillar Inc. will honor its responsibilities assumed under any agreement.

Please contact (309) 675-8400 if you have any questions.

CATERPILLAR®

Effective with sales to the first user on or after July 1, 2016

CATERPILLAR LIMITED WARRANTY

Earthmoving, Construction, Material Handling, Forestry and Paving Machines

Worldwide

Caterpillar Inc. or any of its subsidiaries ("Caterpillar") warrants the following new products sold by it to be free from defects in material and workmanship:

- Earthmoving, construction, material handling, forestry and paving machines (except as listed below).
- Attachments/work tools installed on such machines prior to delivery (unless covered by the Cat® Work Tool warranty statement or another manufacturer's warranty). Hammer tool points and compacting plates used on hydraulic hammers are not warranted.

Additional warranties are applicable against breakage for certain Cat Ground Engaging Tools and for wear on all landfill compactor tips. Refer to the applicable warranty statements for coverage detail.

This warranty does not apply to:

- Cat Batteries
- Mobil-trac belts, rubber tracks used on multi terrain loaders, compact track loaders, and mini hydraulic excavators
- Cat Work Tools
- 424 Backhoe Loaders, 216 and 226 Skid Steer Loaders, and 320 Excavators sold in India
- Prentice brand forestry machines
- Longwall mining machines
- 785, 789, 793, 794, 795, 797 Off-Highway Truck models sold in regions other than the Commonwealth of Independent States ("CIS")
- 24 Motor Grader models sold in regions other than the CIS
- 854, 992, 993, 994 Wheel Loader models sold in regions other than CIS

These products are covered by other Caterpillar warranties.

This warranty is subject to the following:

Warranty Period

For new machines and work tools/attachments the warranty period is 12-months/unlimited hours, starting from date of delivery to the first user.

Note:

- For hydraulic line's quick connect/disconnect components sold on compact wheel loaders, mini hydraulic excavators, skid steer loaders, multi terrain loaders, and compact track loader machines, the warranty period is 50 hours starting from the date of delivery to the first user.
- For Draglines, Electric Rope Shovels, Hard Rock Movers, Hard Rock Feeders, Hard Rock Miners, Hard Rock Conveyors, Hard Rock Roof Supports; the warranty period is not to exceed 24 months from shipment of the last major component from the Caterpillar place of manufacture.

Caterpillar Responsibilities

If a defect in material or workmanship is found during the warranty period, Caterpillar will, during normal working hours and at a place of business of a Cat dealer or other source approved by Caterpillar

- Provide (at Caterpillar's choice) new, remanufactured, or Caterpillar approved repaired parts or assembled components needed to correct the defect.

Note: New, remanufactured, or Caterpillar approved replacement parts provided under the terms of this warranty are warranted for the remainder of the warranty period applicable to the product in which installed as if such parts were original components of that product. Items replaced under this warranty become the property of Caterpillar.

- Replace lubricating oil, filters, antifreeze, and other service items made unusable by the defect.
- Provide reasonable and customary labor needed to correct the defect.

User Responsibilities

The user is responsible for:

- Providing proof of delivery date to the first user.
- Labor costs, except as stated under "Caterpillar Responsibilities."
- Transportation costs, except as stated under "Caterpillar Responsibilities."
- Premium or overtime labor costs.
- Parts shipping charges in excess of those that are considered usual and customary.
- Local taxes, if applicable.
- Costs to investigate complaints, unless the problem is caused by a defect in Caterpillar material or workmanship.
- Giving timely notice of a warrantable failure and promptly making the product available for repair.
- Performance of the required maintenance (including use of proper fuel, oil, lubricants, and coolant) and items replaced due to normal wear and tear.
- Allowing Caterpillar access to all electronically stored data.

Limitations

Caterpillar is not responsible for:

- Failures resulting from any use or installation that Caterpillar judges improper.
- Failures resulting from attachments, accessory items, and parts not sold or approved by Caterpillar.
- Failures resulting from abuse, neglect, and/or improper storage or repair.
- Failures resulting from user's delay in making the product available after being notified of a potential product problem.
- Failures resulting from unauthorized repair or adjustments, and unauthorized fuel setting changes.

continued...

This warranty covers every major component of the products. Claims under this warranty should be submitted to a place of business of a Cat dealer or other source approved by Caterpillar. For further information concerning either the location to submit claims or Caterpillar as the issuer of this warranty, write Caterpillar Inc., 100 N. E. Adams St., Peoria, IL USA 61629.

Caterpillar's obligations under this Limited Warranty are subject to, and shall not apply in contravention of, the laws, rules, regulations, directives, ordinances, orders, or statutes of the United States, or of any other applicable jurisdiction, without recourse or liability with respect to Caterpillar.

A) For products operating outside of Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

NEITHER THE FOREGOING EXPRESS WARRANTY NOR ANY OTHER WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED, IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT CATERPILLAR EMISSION-RELATED COMPONENTS WARRANTY FOR NEW ENGINES, WHERE APPLICABLE. REMEDIES UNDER THIS WARRANTY ARE LIMITED TO THE PROVISION OF MATERIAL AND SERVICES, AS SPECIFIED HEREIN.

CATERPILLAR IS NOT RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED IN ITS ENTIRETY.

B) For products operating in Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

THIS WARRANTY IS IN ADDITION TO WARRANTIES AND CONDITIONS IMPLIED BY STATUTE AND OTHER STATUTORY RIGHTS AND OBLIGATIONS THAT BY ANY APPLICABLE LAW CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED ("MANDATORY RIGHTS"). ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED (BY STATUTE OR OTHERWISE), ARE EXCLUDED. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS PARAGRAPH, WHERE A PRODUCT IS SUPPLIED FOR BUSINESS PURPOSES, THE CONSUMER GUARANTEES UNDER THE CONSUMER GUARANTEES ACT 1993 (NZ) WILL NOT APPLY.
NEITHER THIS WARRANTY NOR ANY OTHER CONDITION OR WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED (SUBJECT ONLY TO THE MANDATORY RIGHTS), IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

IF THE MANDATORY RIGHTS MAKE CATERPILLAR LIABLE IN CONNECTION WITH SERVICES OR GOODS, THEN TO THE EXTENT PERMITTED UNDER THE MANDATORY RIGHTS, THAT LIABILITY SHALL BE LIMITED AT CATERPILLAR'S OPTION TO (a) IN THE CASE OF SERVICES, THE SUPPLY OF THE SERVICES AGAIN OR THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN AND (b) IN THE CASE OF GOODS, THE REPAIR OR REPLACEMENT OF THE GOODS, THE SUPPLY OF EQUIVALENT GOODS, THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT GOODS.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

CATERPILLAR IS NOT LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES UNLESS IMPOSED UNDER MANDATORY RIGHTS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION (CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS) IS EXCLUDED IN ITS ENTIRETY.

C) For products supplied in Australia:

IF THE PRODUCTS TO WHICH THIS WARRANTY APPLIES ARE:

I. PRODUCTS OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION; OR

II. PRODUCTS THAT COST AUD 40,000 OR LESS,

WHERE THOSE PRODUCTS WERE NOT ACQUIRED FOR THE PURPOSE OF RE-SUPPLY OR FOR THE PURPOSE OF USING THEM UP OR TRANSFORMING THEM IN THE COURSE OF PRODUCTION OR MANUFACTURE OR IN THE COURSE OF REPAIRING OTHER GOODS OR FIXTURES, THEN THIS SECTION C APPLIES.

THE FOLLOWING MANDATORY TEXT IS INCLUDED PURSUANT TO THE AUSTRALIAN CONSUMER LAW AND INCLUDES REFERENCES TO RIGHTS THE USER MAY HAVE AGAINST THE DIRECT SUPPLIER OF THE PRODUCTS: OUR GOODS COME WITH GUARANTEES THAT CANNOT BE EXCLUDED UNDER THE AUSTRALIAN CONSUMER LAW. YOU ARE ENTITLED TO A REPLACEMENT OR REFUND FOR A MAJOR FAILURE AND COMPENSATION FOR ANY OTHER REASONABLY FORESEEABLE LOSS OR DAMAGE. YOU ARE ALSO ENTITLED TO HAVE THE GOODS REPAIRED OR REPLACED IF THE GOODS FAIL TO BE OF ACCEPTABLE QUALITY AND THE FAILURE DOES NOT AMOUNT TO A MAJOR FAILURE. THE INCLUSION OF THIS TEXT DOES NOT CONSTITUTE ANY REPRESENTATION OR ACCEPTANCE BY CATERPILLAR OF LIABILITY TO THE USER OR ANY OTHER PERSON IN ADDITION TO THAT WHICH CATERPILLAR MAY HAVE UNDER THE AUSTRALIAN CONSUMER LAW.

TO THE EXTENT THE PRODUCTS FALL WITHIN THIS SECTION C BUT ARE NOT OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION, CATERPILLAR LIMITS ITS LIABILITY TO THE EXTENT IT IS PERMITTED TO DO SO UNDER THE AUSTRALIAN CONSUMER LAW TO, AT ITS OPTION, THE REPAIR OR REPLACEMENT OF THE PRODUCTS, THE SUPPLY OF EQUIVALENT PRODUCTS, OR THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT PRODUCTS.

THE WARRANTY SET OUT IN THIS DOCUMENT IS GIVEN BY CATERPILLAR INC. OR ANY OF ITS SUBSIDIARIES, 100 N. E. ADAMS ST, PEORIA, IL USA 61629, TELEPHONE 1 309 675 1000,THE USER IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH MAKING A CLAIM UNDER THE WARRANTY SET OUT IN THIS DOCUMENT, EXCEPT AS EXPRESSLY STATED OTHERWISE IN THIS DOCUMENT, AND THE USER IS REFERRED TO THE BALANCE OF THE DOCUMENT TERMS CONCERNING CLAIM PROCEDURES, CATERPILLAR RESPONSIBILITIES AND USER RESPONSIBILITIES.

TO THE EXTENT PERMISSIBLE BY LAW, THE TERMS SET OUT IN THE REMAINDER OF THIS WARRANTY DOCUMENT (INCLUDING SECTION B) CONTINUE TO APPLY TO PRODUCTS TO WHICH THIS SECTION C APPLIES.

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CAT, CATERPILLAR, their respective logos, "Caterpillar Yellow," the "Power Edge" trade dress as well as corporate and product identity used herein, are trademarks of Caterpillar and may not be used without permission.

Effective with sales to the first user on or after January 1, 2014.

CATERPILLAR LIMITED WARRANTY

Rubber Track Used on Multi Terrain Loaders, Compact Track Loaders, and Mini Hydraulic Excavators

Worldwide

Caterpillar Inc. or any of its subsidiaries ("Caterpillar") warrants new rubber tracks sold by it for use on Compact Construction Equipment Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators to be free from defects in material and workmanship. The warranty is subject to the following:

Warranty Period

The standard warranty period for all new Premium rubber tracks used on Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators is 12 months, or 1500 operating hours, whichever occurs first, starting from the date of delivery to the first user.

The standard warranty period for new General Duty rubber tracks used on Multi Terrain Loaders and Compact Track Loaders is 12 months or 1000 operating hours, whichever occurs first, starting from the date of delivery to the first user.

Caterpillar Responsibilities

If a disabling defect in material or workmanship is found during the warranty period, Caterpillar will, during normal working hours and at a place of business of a Cat® dealer or other source approved by Caterpillar:

- At Caterpillar's choice, repair or provide an allowance toward the purchase of a new rubber track. Such allowance will be based on accrued hours. Allowance will be calculated as follows:

User Allowance for Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators with Premium rubber tracks:

Allowance (%) = (1-Track hours/1500 hours) X 100

User Allowance for Multi Terrain Loaders and Compact Track Loaders with General Duty rubber tracks.

Allowance (%) = (1-Track hours /1000 hours) X 100

- Provide reasonable and customary repair labor needed to correct the defect if product found to be defective and its replacement are both installed by a Cat dealer or other source approved by Caterpillar, or installed on machine prior to sale.

User Responsibilities

The user is responsible for:

- Providing proof of the delivery date to the first user.
- All cost associated with transporting the product to and from the place of business of a Caterpillar dealer or other source approved by Caterpillar.
- Labor costs, except as stated under "Caterpillar Responsibilities."
- Local taxes, if applicable.
- Any remaining costs of a new rubber track after the calculation of the "User Allowance" as stated under "Caterpillar Responsibilities."
- Parts shipping charges in excess of those that are usual and customary.
- Costs to investigate complaints, unless the problem is caused by a defect in material or workmanship.
- Giving timely notice of a warrantable failure and promptly making the product available for repair.

Limitations

Caterpillar is not responsible for:

- Failures resulting from any use or installation that Caterpillar judges improper.
- Failures resulting from abuse, neglect, or improper repair.
- Failures resulting from user's delay in making the product available after being notified of a potential product problem.
- Failures resulting from unauthorized repair or adjustments and unauthorized fuel setting changes.
- Failures resulting from attachments, accessory items, and parts not sold or approved by Caterpillar.

(Continued on reverse side....)

This warranty covers every major component of the products. Claims under this warranty should be submitted to a place of business of a Cat dealer or other source approved by Caterpillar. For further information concerning either the location to submit claims or Caterpillar as the issuer of this warranty, write Caterpillar Inc., 100 N. E. Adams St., Peoria, IL USA 61629.

Caterpillar's obligations under this Limited Warranty are subject to, and shall not apply in contravention of, the laws, rules, regulations, directives, ordinances, orders, or statutes of the United States, or of any other applicable jurisdiction, without recourse or liability with respect to Caterpillar.

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II. PRODUCTS THAT COST AUD 40,000 OR LESS,

WHERE THOSE PRODUCTS WERE NOT ACQUIRED FOR THE PURPOSE OF RE-SUPPLY OR FOR THE PURPOSE OF USING THEM UP OR TRANSFORMING THEM IN THE COURSE OF PRODUCTION OR MANUFACTURE OR IN THE COURSE OF REPAIRING OTHER GOODS OR FIXTURES, THEN THIS SECTION C APPLIES.

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TO THE EXTENT PERMISSIBLE BY LAW, THE TERMS SET OUT IN THE REMAINDER OF THIS WARRANTY DOCUMENT (INCLUDING SECTION B) CONTINUE TO APPLY TO PRODUCTS TO WHICH THIS SECTION C APPLIES.

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CAT, CATERPILLAR, their respective logos, "Caterpillar Yellow", the "Power Edge" trade dress as well as corporate and product identity used herein, are trademarks of Caterpillar and may not be used without permission.

Re: Due November 4 -- Exemption request for business license

Tax-License Tax-License to: Schreifels_Ann_M 10/26/2016 03:43 PM
Cc: "Jeffrey Whiting"

Caterpillar: Confidential Green Retain Until: 11/25/2016
History: This message has been forwarded.

Ms. Schreifels,

Since Caterpillar Inc will have a business location within Tucson city limits, Caterpillar will need a city business license. If the office in Tucson is not selling any items, then it will not need a City of Tucson tax license.

You can contact the license section at 520-791-4566 regarding a business license. You can also register for a business license using the City's e-tax system.
https://urldefense.proofpoint.com/v2/url?u=https-3A__www.tucsonaz.gov_finance&d=DQIFAg&c=p0oa49nxxGtbbM2qgM-GB4r4m9OlGg-sEp8sXylY2aQ&r=WMM-Ht51y52fzXNRZvP2tBVTk26SHHwUPGwOJAl6F28&m=HPFwjLMGClbmrODIDUKpY0AsADLvILKVeSz0jgvqgbw&s=APhmU16iI7x-JCKk_KSfzLwib00MZic_U0NiNPME11Q&e=

Thank you.

Pam

>>> "Ann M. Schreifels" <Schreifels_Ann_M@cat.com> 10/14/2016 11:47 AM >>>
Hello,

I'm writing behalf of Caterpillar Inc. We are responding to a City of Tucson RFP (#161534) and one of the requirements is to either hold a City of Tucson business license or receive a written determination from your office that a business license is not required.

Though we are responding as a manufacturer, it is our local dealer, Empire Machinery, who will conduct all business with the city. Caterpillar will never directly sell equipment nor collect any funds. This is how we are currently doing business and we are not requesting any changes. (Empire Machinery does have a current City of Tucson business license.)

Would you be able to confirm in writing that Caterpillar Inc. is not required to hold a business license for the purposes of this RFP?

The City of Tucson contract officer leading this RFP is Jeffrey Whiting and either he or I would be happy to clarify this request.

Thank you very much,

Ann Schreifels
Americas Marketing Supervisor
Governmental Sales & Business Processes
Global Construction & Infrastructure
100 NE Adams St. | Peoria, IL | USA | 61629
Tel: 309-266-0471 | Tie: 7-726-0471 | C: 309-338-5976

City of Tucson

License Certificate

Business Name and Tucson Mailing Address:

EMPIRE SOUTHWEST LLC
PO BOX 2985
PHOENIX AZ 85062-2985

License Number: 3006282

Type: General Freight Trucking, Local

Issue Date: December 31, 2015

Expiration Date: December 31, 2016

Owner:
EMPIRE SOUTHWEST LLC

This license / permit is **non-transferable** and must be posted in a conspicuous place at the business location.

THE ISSUANCE OF THIS LICENSE / PERMIT SHALL NOT BE CONSTRUED AS PERMISSION TO OPERATE IN VIOLATION OF ANY LAW OR REGULATION.

FOLD HERE

CITY OF TUCSON, ARIZONA
FINANCE DEPARTMENT
REVENUE DIVISION - LICENSE
Expiration Date: December 31, 2016

Non-Transferable

3006282

MUST BE DISPLAYED IN A CONSPICUOUS PLACE

Business License

For the payment of the license fee, the person or firm below is hereby licensed to conduct business in the City of Tucson. Tax accruing to the City of Tucson shall be paid under provisions of Ch. 19, Tucson City Code. This license is subject to revocation for violation of Ch. 7 or Ch. 19 of the Tucson City Code.

Issued To: EMPIRE SOUTHWEST LLC

Located At: 7600 S NOGALES HY, TUCSON, AZ 85756

Effective: January 01, 2016

Please refer to license number in all correspondence.

By _____
Finance Director

CATERPILLAR®

Caterpillar Inc.
100 NE Adams Street
Peoria, IL 61629

TO: Jeffrey Whiting, Contract Officer
City of Tucson, AZ

FM: Patty Redpath, Governmental Account Manager
Caterpillar Inc.

RE: Payments for purchases under RFP #161534

As requested in the RFP, this note constitutes formal notice that payments by the City of Tucson for products and services under this contract should be made to our authorized dealer, Empire Machinery.

Payments should be directed to:

Empire Machinery
7000 S. Nogales Highway
Tucson, AZ 85756-9640
Phone: 520-746-8200

CATERPILLAR®

Caterpillar Inc.
100 NE Adams Street
Peoria, IL 61629

November 14, 2016

TO: Jeffrey Whiting, Contract Officer
City of Tucson

FM: Ann Schreifels
Governmental Sales Manager

RE: Price Discounts and Price Pages

Caterpillar does not have a typical product catalog or price pages. Because our machines and equipment are relatively low volume products and often created to customer specifications, we don't have a static document to attach here. With more than 300 products that each have a detailed 20- 40-page price list, we also didn't feel it was in the best interest of the City's environmentally conscious policies.

The City of Tucson can request current price pages from Caterpillar Inc, or from Empire Machinery at any time.

Because our pricing model under this contract is a minimum discount off of list price, those discounts are attached here. Working with the local sales representative to configure the machine correctly and then applying the discount will result in the contract price indicated in this proposal.

Please feel free to reach out to me at 309-338-5976 or to Patty Redpath at 309-494-4578 if you are not able to reach a local Empire Machinery contact.

Cooperative Contracts 2017 - City of Tucson RFP Response

Machine Model*	New Equipment
2016	Discount to Customer (Off List Price)
Pavers	
AP255	16.00%
AP300	16.00%
AP355	16.00%
AP500	16.00%
AP555	16.00%
AP600	16.00%
AP655	16.00%
AP1000	16.00%
AP1055	16.00%
Rollers	
CB7	16.00%
CB8	16.00%
CB10	16.00%
CB14	16.00%
CB22	16.00%
CB24	16.00%
CB32	16.00%
CB34	16.00%
CB36	16.00%
CB44	16.00%
CB46	16.00%
CB54	16.00%
CB64	16.00%
CB66	16.00%
CB68	16.00%
CC24	16.00%
CC34	16.00%
CD8	16.00%
CD10	16.00%
CD44	16.00%
CD54	16.00%
CP34	14.00%
CP44	14.00%
CP54	14.00%
CP56	14.00%
CP68	14.00%
CP74	14.00%
CS34	14.00%
CS44	14.00%
CS54	14.00%
CS56	14.00%
CS64	14.00%
CS68	14.00%
CS78	14.00%
CW14	16.00%
CW16	16.00%
CW34	16.00%

***Note: Base machines are listed. There may be several different base machine configurations available. (For example, the D6 model track type tractor is available as a D6K, D6N and D6T). The base machine discount will be applied to any model configuration plus any and all options listed on the Caterpillar Machine price list.**

2017 Caterpillar Coop Contract Discounts - for City of Tucson RFP - November 2016.xls

Vocational Trucks

CT660	23.00%
CT680	23.00%
CT681	23.00%

Track Type Tractors

D3	25.00%
D4	25.00%
D5	25.00%
D6	24.00%
D7	22.00%
D8	22.00%
D9	10.00%

Wheeled Excavators

M314F	30.00%
M315F	30.00%
M316F	30.00%
M317F	30.00%
M318F	30.00%
M320F	30.00%
M322F	30.00%

Cold Planers

PM102	14.00%
PM620	14.00%
PM622	14.00%

Reclaimers

RM300	14.00%
RM500	14.00%

Telehandlers

TH255	26.00%
TH306	26.00%
TH3510	26.00%
TH406	26.00%
TH407	26.00%
TH514	26.00%
TL642	26.00%
TL943	26.00%
TL1055	26.00%
TL1255	26.00%

Motor Graders

12	33.00%
120	37.00%
140	33.00%
160	33.00%
14	23.00%

Skid Steer Loaders

226	25.00%
232	25.00%
236	25.00%
242	25.00%
246	25.00%
262	25.00%
272	25.00%

Multi-Terrain Loaders

257	25.00%
277	25.00%
287	25.00%
297	25.00%

2017 Caterpillar Coop Contract Discounts - for City of Tucson RFP - November 2016.xls

Compact Track Loaders

239	25.00%
249	25.00%
259	25.00%
279	25.00%
289	25.00%
299	25.00%

Excavators

300.9	24.00%
301.4	24.00%
301.7	24.00%
302.4	24.00%
302.7	24.00%
303	24.00%
303.5	24.00%
304	24.00%
304.5	24.00%
305	24.00%
305.5	24.00%
307	24.00%
308	24.00%
311	24.00%
312	21.00%
313	21.00%
313GC	21.00%
315	25.00%
316	25.00%
318	22.00%
320	18.00%
321	18.00%
323	18.00%
325	18.00%
326	18.00%
329	18.00%
330	18.00%
335	18.00%
336	18.00%
349	12.00%
352	12.00%
374	12.00%

Backhoe Loaders

415	24.00%
416	24.00%
420	24.00%
430	24.00%
450	24.00%

Site Prep Tractor

586C	20.00%

Wheel Tractor Scrapers

621	16.00%
623	17.00%
627	16.00%

2017 Caterpillar Coop Contract Discounts - for City of Tucson RFP - November 2016.xls

Articulated Trucks	
725	14.00%
730	14.00%
735	14.00%
740	14.00%
745	14.00%

Rigid Frame Trucks	
770	10.00%
773	10.00%

Landfill Compactors	
816	14.00%
826	14.00%
836	14.00%

Wheel Dozers and Soil Compactors	
814	15.00%
815	15.00%
824	15.00%
825	15.00%

Wheel Loaders	
903	25.00%
906	25.00%
907	25.00%
908	25.00%
910	25.00%
914	25.00%
918	26.00%
924	26.00%
926	26.00%
930	26.00%
938	26.00%
950GC	26.00%
950M	24.00%
962	24.00%
966	21.00%
972	16.00%
980	12.00%
982	12.00%

Track Loaders	
953	20.00%
963	23.00%
973	23.00%

Worktools	15.00%

Caterpillar Safety Services	15.00%

Used Equipment is discounted 20% from Original Customer List

Rental Equipment is discounted 10% from dealership Rental Rates

Parts & Service is discounted by the servicing dealer according to work order volume

Caterpillar Oct. 7, 2016 National IPA Participant Discounts

All Discounts listed are for "Standby Ratings Only unless otherwise stated".

	Participant Discount
60 HZ, 40 - 175 kW *(Reference the "PSNA-EPG-F_PE400CNN" Caterpillar Price List)*	
D13	50%
D20	50%
D25	50%
D30	50%
60 HZ, 40 - 175 kW *(Reference the "PSNA-EPG-F_1100CNN" Caterpillar Price List)*	
D40-6 (3 phase)	50%
D50-6 (3 phase)	50%
D60-6 (3 phase)	50%
D80-6 (3 phase)	50%
D100-6 (3 phase)	50%
D125-6 (3 phase)	50%
D150-8 (3 phase)	50%
D175-2 (3 phase)	50%
D40-6S (1 phase)	50%
D50-6S (1 phase)	50%
D60-8S (1 phase)	50%
D80-2S (1 phase)	50%
D100-6S (1 phase)	50%
60 HZ, 40 - 60 kW *(Reference the "PSNA-EPG-F_C4.4LCAN" Caterpillar Price List)*	
D40-6	31%
D50-6	31%
D60-6	31%
D40-2LC	31%
D50-2LC	31%
D60-2LC	31%
60 HZ, 40 - 100 kW *(Reference the "PSNA-EPG-F_C4.4PGAN or C4.4PGBN" Caterpillar Price List)*	
D40 (3 phase)	31%
D50 (3 phase)	31%
D60 (3 phase)	31%
D80 (3 phase)	31%
D100 (3 phase)	31%
D40-S (1 phase)	31%
D50-S (1 phase)	31%
D60-S (1 phase)	31%
D80-S (1 phase)	31%
D100-S (1 phase)	31%
60 HZ, 125 - 175 kW *(Reference the "PSNA-EPG-F_C6.6PGAN" Caterpillar Price List)*	
D125-6 (3 phase)	35%
D150-8 (3 phase)	35%
D175-2 (3 phase)	35%
60 HZ, 200 kW *(Reference the "PSNA-EPG-F_C7.1PGAN" Caterpillar Price List)*	
D200-2 (3 phase)	35%
C9, 60 HZ, 200 - 300 eKW (Reference the "PSNA-EPG-F_C9PKGN" Caterpillar Price List)	
200 kW (600, 480, 240 Volt)*	38%
250 kW (600, 480, 240 Volt)*	36%
300 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	
C9, 60 HZ, 200 - 300 eKW (Reference the "PSNA-EPG-F_C9PGAN" Caterpillar Price List)	
200 kW (600, 480, 240 Volt)*	33%
250 kW (600, 480, 240 Volt)*	37%
300 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	
C13PGAN, 350kW & 400kW	37%
C15, 60 HZ, 350 - 500 KW (Reference the "PSNA-EPG-F_C15PGAN" Caterpillar Price List)	
350 kW (600, 480, 240 Volt)*	37%
400 kW (600, 480, 240 Volt)*	37%
450 kW (600, 480, 240 Volt)*	37%
500 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	

C15, 60 HZ, 455 - 500 KW (Reference the "PSNA-EPG-F_C15PKGN" Caterpillar Price List)	
(EPA & CARB Tier 4 Interim Emissions Certified)	
455 kW Prime Power, 500 kW Standby 600 Volt Tier 4i	20%
455 kW Prime Power, 500 kW Standby 480 Volt Tier 4i	20%
455 kW Prime Power, 500 kW Standby 208 Volt Tier 4i	20%
C18, 60 HZ, 550 - 600 kW (Reference the "PSNA-EPG-F_C18PGAN" Caterpillar Price List)	
550 kW (600, 480, 240 Volt)*	33%
600 kW (600, 480, 240 Volt)*	33%
*Other Voltages available, but may affect generator output	
C18, 60 HZ, 455 - 500 KW (Reference the "PSNA-EPG-F_C18PKAN" Caterpillar Price List)	
(EPA & CARB Tier 4 Final Emissions Certified)	
455 kW Prime Power, 500 kW Standby 480 Volt Tier 4F	20%
C27, 60 HZ, 750 - 800 KW (Reference the "PSNA-EPG-F_C27PGBN" Caterpillar Price List)	
750 kW 480 Volt	33%
800 kW 480 Volt	33%
C27, 60 HZ, 725 - 800 KW (Reference the "PSNA-EPG-F_C27PKGN" Caterpillar Price List)	
(EPA & CARB Tier 4 Interim Emissions Certified)	
725 kW Prime Power, 800 kW Standby 480 Volt Tier 4i	17%
725 kW Prime Power, 800 kW Standby 480 Volt Tier 4i Heavy Duty	17%
C32, 60 HZ, 1000 kW	
(Reference the "PSNA-EPG-F_C32PKGN" Caterpillar Price List)	
1000 kW 480	37%
3512C, 60 HZ, 1500 kW (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3512PGAN" Caterpillar Price List)	
480 V, Standby Rating Only - 1500 kW	33%
12470 V, Standby Rating Only - 1500 kW	33%
3516C, 60 HZ, 2000 kW (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3516PGAG" Caterpillar Price List)	
480 V, Standby Rating Only - 2000 kW	33%
12470 V, Standby Rating Only - 2000 kW	33%
3516C-HD, 60 HZ, 2500 kW (EPA Tier 4) 480/277, 4160, 12470 Volts available	
(Reference the "PSNA-EPG-F_3516PGEG" Caterpillar Price List)	19%
3516C-HD, 60 HZ, 2000 kW (EPA Tier 4) 480/277, 460, 12470 Volts available	
(Reference the "PSNA-EPG-F_3516PGEG" Caterpillar Price List)	19%
3516B, 60 HZ, 2000 kW (EPA Tier 1)	
(Reference the "PSNA-EPG-F_3516PGDG" Caterpillar Price List)	
Low/Med Voltage - Standby Rating Only - 2000 kW	32%
High Voltage - Standby Rating Only - 2000 kW	32%
3516B, 60 HZ, 2250 kW (EPA Tier 1)	
(Reference the "PSNA-EPG-F_3516PGDG" Caterpillar Price List)	
Low/Med Voltage - Standby Rating Only - 2250 kW	32%
High Voltage - Standby Rating Only - 2250 kW	32%
3516C HD, 60 HZ, 2500 kW (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3516PGEG" Caterpillar Price List)	
Low/Med Voltage - Standby Rating Only - 2500 kW	30%
High Voltage - Standby Rating Only - 2500 kW	30%
3516-PGDL, 2MW, 2.5MW	32%
3516-PGEL, 2MW, 2.5MW Tier 4 Final	19%
G3412, 60 HZ, 1200 RPM, 3 Phase, 480 Volt	
(Reference the "PSNA-EPG-F_G3412PGG" Caterpillar Price List)	26%
G3508, 60 HZ, 1200 RPM, 3 Phase, 480 Volt	
(Reference the "PSNA-EPG-F_G3508EPG" Caterpillar Price List)	17%
G3412PGG Standby, 375kW, 450kW, 500kW	26%
G3512NL Stationary Certified 831bkW, 1095bkW	17%
G3516, 60 HZ, 1800 RPM, 3 Phase, 240 or 480 Volt, Self Excited	
(Reference the "PSNA-EPG-F_G3516APGG" Caterpillar Price List)	
1040 eKW - Standby	17%

G3516, 60HZ, 1200 RPM, 3 Phase, 480 Volt
(Reference the "PSNA-EPG-F_G3516AEPG" Caterpillar Price List) 17%

G3516H, 60HZ, 1500 RPM, 3 Phase
(Reference the "PSNA-EPG-F_G3516HNG" Caterpillar Price List) 17%

G3520H, 60 HZ
(Reference the "PSNA-EPG-F_G3520HNL" Caterpillar Price List) 17%

G3520, 60 HZ, 2055, 1900, or 1600 eKW
(Reference the "PSNA-EPG-F_G3520CPGL" Caterpillar Price List) 17%

CG132, CG170, CG260 (custom) 15%

Due to the customization and plethora of options, it is not feasible to provide a paper price list for these specific generator sets.
Each quote is custom for the specific application.
However, members will receive a 15% discount off of the configured list price from each member's local dealer.

C175, 60 HZ, 4000 kW (EPA Tier 2 for Mobile and Stationary Use)
(Reference the "PSNA-EPG-F_C175-20EL" Caterpillar Price List)
4000 kW (with Fan Rating) 24%

C175, 60 HZ, 3000 kW (EPA Tier 4)
(Reference the "PSNA-EPG-F_C175A16EL" Caterpillar Price List)
3000 kW (with Fan Rating) 19%

C175, 60 HZ, 3000 kW (EPA Tier 2 for Mobile and Stationary Use)
(Reference the "PSNA-EPG-F_C175-16EL" Caterpillar Price List)
3000 kW (with Fan Rating) 26%
3100 kW (without Fan Rating) 26%

G30PGAN, 30kW

G80PGAN, 50kW, 60kW, 80kW

G150PGAN, 100kW, 125kW, 150kW

Natural Gas (Optional LPG) Olympian Generator Sets, 25 - 300 kW
(Reference the "PSNA-EPG-F_GASOLYGN" Caterpillar Price List)

G25	26%
G35	26%
G40	26%
G45	26%
G50	26%
G60	26%
G70	26%
G80	26%
G100	26%
G130	26%
G150	26%
G150	26%
G175	26%
G200	26%
G230	26%
G250	26%
G275	26%
G300	26%

APS60 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List) 17%
APS100 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List) 17%
APS1000 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List) 17%
APS2000 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List) 17%

XQ20N, 60 HZ, 20 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad))
(Reference the "PSNA-EPG-F_XQ20N" Caterpillar Price List)
20 kW* (3 or 1 phase) 45%
*There are several voltage options available

XQ30N, 60 HZ, 30 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad))
(Reference the "PSNA-EPG-F_XQ30N" Caterpillar Price List)
30 kW* (3 or 1 phase) 45%
*There are several voltage options available

XQ35BN, 60 HZ, 35 kVA prime (EPA Tier 4 Final & CARB Emissions Certified (Non-road))
(Reference the "PSNA-EPG-F_XQ35BN" Caterpillar Price List)

XQ60N, 60 HZ, 60 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad))
(Reference the "PSNA-EPG-F_XQ60N" Caterpillar Price List)
60 kW* (3 or 1 phase) 45%
*There are several voltage options available

XQ60BN Tier 4 Final	23%
XQ200N, 60 HZ, 200 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ200N" Caterpillar Price List)*	
182 kW* (3 phase or 1 phase)	45%
XQ350N, 60 HZ, 350 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ350N" Caterpillar Price List)*	
320 kW* (3 phase or 1 phase)	23%
XQ375BN, 60 HZ, 375 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ375BN" Caterpillar Price List)*	23%
XQ500N, 60 HZ, 500 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ500N" Caterpillar Price List)*	
455 kW* (3 or 1 phase)	23%
XQ570BN, 60 HZ, 500 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road)) (Reference the "PSNA-EPG-F_XQ570BN" Caterpillar Price List)	23%
XQ800N, 60 HZ, 800 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road)) *(Reference the "PSNA-EPG-F_XQ800N" Caterpillar Price List)*	
725 kW* (3 or 1 phase)	23%
*There are several voltage options available	
XQ2000N, 60 HZ, 2000 kW (EPA Tier 2 & CARB Emissions Certified) *(Reference the "XQ2000N" Caterpillar Price List)*	
1825 kW* (3 phase)	19%
Switchgear (customizable)	12%
*Due to the customization and plethora of options, it is not feasible to provide a paper price list for Cat switchgear. However, members will receive a **12% discount** off of the configured list price from each member's local dealer.*	
UPS (Uninterruptible Power Supply) **60 HZ, 40 - 130 kVA (Reference the "UPSB130G" Caterpillar Price List)**	
UPSB040 (40kVA)	20%
UPSB050 (50 kVA)	20%
UPSB060 (60 kVA)	20%
UPSB080 (80 kVA)	20%
UPSB100 (100 kVA)	20%
UPSB130 (130 kVA)	20%
Plus all price list related options	20%
UPS (Uninterruptible Power Supply) **Flywheel Options** **(Reference the "UPS300AG" Caterpillar Price List)**	
UP0300A - UPS 300 480V 60HZ	20%
UP300G - UPS 300 480V 60HZ	20%
UP0600G - UPS 600 480V 60HZ	20%
UPO300Z - UPS 300 480V 60HZ	20%
UPO600Z - UPS 600 480V 60HZ	20%
UPO900Z - UPS 900 480V 60HZ	20%
UPO1200Z - UPS 1200 480V 60HZ	20%
UPEXP02 - UPS Module Power Stage Expansion	20%
(Reference the "UPS750FG" Caterpillar Price List)	20%
Epic (Reference the "CATEPICG" Price List)	
Epic - Master Control Panel	10%
Epic - Generator Control Panel	10%
Epic - Utility Control Panel	10%
Supervisory Contol Panel (Reference the "CATSCPN" Price List)	
EMCP 4.4 SCP	10%
ATS (AUTOMATIC TRANSFER SWITCHES)	
444 ATS's available via ATS 2014 Price List Password: ATS2011	20%

Caterpillar Sourced Goods & Support Services Multiplier (Power Systems Only)

Sourced Goods & Support Service Provided	National IPA Member Pricing
Custom Shop Work	5% off list price / typical sale price if no list price is available
Installation	5% off list price / typical sale price if no list price is available
Delivery/Freight	5% off list price / typical sale price if no list price is available
Training	5% off list price / typical sale price if no list price is available
Custom Enclosure	5% off list price / typical sale price if no list price is available
Custom Fuel Tank	5% off list price / typical sale price if no list price is available
Custom ATS	5% off list price / typical sale price if no list price is available
Dealer Labor	5% off list price / typical sale price if no list price is available
Additional/Custom Parts	5% off list price / typical sale price if no list price is available
General Contracting Labor	5% off list price / typical sale price if no list price is available
Maintenance Agreements	5% off list price / typical sale price if no list price is available

Electrical Energy Generation Equipment with Related Accessories, Services, and Supplies.

Allied Products Discount Table	
Construction and Mining	**Minimum List/Card Discount**
Allmand (Light Towers)	18.00%
Broce Brooms	9.00%
JLG (Man lifts)	22.00%
Mega (Water tanks, Towers and Trailers)	8.00%
Genie (Man lifts and Telehandlers)	20.00%
Progressive Solar (Solar Power Light Plants)	10.00%
Multiquip Power	24.00%
Sullair Air Compressors	28.00%
Rockland (Buckets and Dozer Blades)	8.00%
Paladin (Couplers and Attachments)	8.00%
CE Attachments (Attachments)	12.00%
Dymax (Attachments)	8.00%
Weiler Paving Products (Pavers, Tack Trucks & Trailers, Wideners)	10.00%
Wain-Roy	11.00%
Agriculture	
Challenger Tractors	13.00%
Massey Ferguson Tractors	13.00%
Rome (Construction Grade Discs and Plows)	13.00%
Woods (Scrapers and Mowers)	13.00%
Gearmore (Attachments)	13.00%
Reynolds (Scrapers)	13.00%
TG Schmeiser (Box blades, Land Levelers)	13.00%
Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	13.00%
On Road Industrial	
Fuso Trucks	7.50%
Mac Trailers	8.40%
Maintainer (Service Bodies)	6.00%
Murray Trailers (Heavy Haul)	2.00%
Trail King (Small to Heavy Haul)	7.00%
UTB (Service Bodies)	8.40%
Fleming Trailers	8.40%
Technology	
Spectra Precision (Survey Instruments)	12.00%
Trimble (2D and 3D Grading Systems)	12.00%
Accugrade (Caterpillar Grade Control)	12.00%
Seco (Surveying and Site Prep)	12.00%
Laserline (Laser Controls)	12.00%
Apache (Grade Control, GPS and Lasers)	12.00%
Level Best (Laser Grading Box)	10.00%
Unlisted and Future Allied Suppliers	
All unnamed supplies will have a minimum of 40% off the Standard Dealer Discount from the Manufacturer's List Price	
Example: Unnamed Manufacturer Dealer Discount Off List	10%
40% Off the Standard Dealer Discount	4%
Minimum Discount Offered under RFP #161534	4%

Dealer Related Parts, Service, Rentals and Accessories	
Dealer Related Parts, Service, Rentals, and Accessories	**Minimum List/Card Discount**
Rental Rate Discount	15%
Used Machines Purchase Discount	20%
GET (Ground Engaging Tools) Discount	25%
Filter Discount	20%
Fluid Discount with TM&R (Total Maintenance & Repair)	14%
Undercarriage Discount	15%
Power Systems Rental Rate	15%
Power Systems Used Purchase Discount	20%
Used Work Tools	14%

PROPOSAL EVALUATION REQUIREMENTS

A. Method of Approach

1) National Program

a. Provide a response to the national program by including a detailed response to Attachment A, Exhibit A, National IPA Response for National Cooperative Contract. Provide any proposed exceptions to Attachment A, Exhibit B, National IPA Administration Agreement for the City's consideration.

Caterpillar Response

Caterpillar will be providing a response to RFP #161534 on behalf of Caterpillar and Participating Caterpillar's Dealer's in an effort to support the terms included herein on a national scale. Additionally, Caterpillar has asked the local authorized dealer, Empire Machinery, to provide supplemental responses to applicable questions specific to the manner in which they will be specifically supporting the contract for the City of Tucson. From a national standpoint, these supplemental responses should only be considered examples of the manner in which business may be conducted. The contract may be supported differently in jurisdictions other than those serviced by Empire Machinery.

Please also see our attached proposed exceptions.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire Machinery will be providing a response to RFP #161534 on behalf of Caterpillar's Dealer network in an effort to support the terms included herein on a national scale. Empire will provide supplemental responses to applicable questions specific to the manner in which Empire will be specifically supporting the contract for the City of Tucson. From a national standpoint, Empire's supplemental responses should only be considered examples of the manner in which business may be conducted. The contract may be supported differently in territories other than those serviced by Empire Machinery

2) Distribution Network

a. Describe how your firm proposes to distribute the equipment, accessories, parts, repair and services nationwide. Describe any parts the distribution network will have "on-hand" and those that must be ordered.

Caterpillar Response (only)

-Confidential-

SEE CATERPILLAR/CITY OF TUCSON CONFIDENTIAL DOCUMENT

b. Identify all other companies/distributors/dealers that will be involved in processing, handling or shipping the products/services to Participating Public Agencies.

Caterpillar Response (only)

Caterpillar and Cat Dealers are the two principle parties involved in providing products/services to public agencies. In most cases, the Cat dealers have their own transport trucks and trailers capable of handling or shipping the products/services from the Caterpillar facilities to the Dealership location(s), as well as to the Participating Public Agencies. Both Caterpillar and the dealers may contract transport out to meet time deadlines, and/or to reduce cost for our customers.

The transport companies used by Caterpillar or Cat dealers must meet the strict requirements of our transportation plan. Additional details can be provided upon request.

c. Provide the number, size and location of your firm's manufacturing facilities, distribution facilities, warehouses, service facilities and dealer networks as applicable. State the estimated dollar value of your inventory. Include a map showing heavy equipment distribution network coverage nationwide.

Caterpillar Response (only)

Caterpillar operates parts distribution centers in the following locations: Morton, Illinois; Arvin, California; Denver, Colorado; Miami, Florida; Atlanta, Georgia; St. Paul, Minnesota; Clayton, Ohio; York, Pennsylvania; Waco, Texas; Spokane, Washington; Melbourne, Australia; Queensland, Australia; Grimbergen, Belgium; Piracicaba, Brazil; Shanghai, China; San Luis Potosi, Mexico; Singapore, Republic of Singapore; Moscow, Russia; Johannesburg, South Africa, and Dubai, United Arab Emirates. We also own or lease other facilities that support our distribution activities.

Our current principal manufacturing facilities include those used by the following segments in the following locations:

CONSTRUCTION INDUSTRIES	
U.S. Facilities	Facilities Outside the U.S.
Arkansas: North Little Rock **Illinois:** Aurora, Decatur, East Peoria **North Carolina:** Clayton, Sanford **Texas:** Victoria **Georgia:** Athens	**Belgium:** Gosselies **Brazil:** Campo Largo, Piracicaba **China:** Suzhou, Wujiang Xuzhou, Qingzhou **France:** Grenoble, Echirolles **Hungary:** Godollo **India:** Thiruvallur **Indonesia:** Jakarta **Japan:** Akashi, Sagamihara **Poland:** Janow, Sosnowiec **Russia:** Tosno, Novosibirsk **United Kingdom:** Desford, Stockton **Thailand:** Rayong
RESOURCE INDUSTRIES	

Illinois: Aurora, Decatur, East Peoria, Joliet **North Carolina:** Winston-Salem **Pennsylvania:** Houston **South Carolina:** Sumter **Tennessee:** Dyersburg **Texas:** Dennison **Wisconsin:** South Milwaukee	**Australia:** Beresfield, Burnie **China:** Langfang, Tongzhou, Wuxi, Zhengzhou **Czech Republic:** Ostrava **France:** Arras **Germany:** Dortmund, Lunen **India:** Hosur, Thiruvallur **Indonesia:** Batam **Italy:** Jesi **Japan:** Sagamihara **Mexico:** Acuña, Monterrey, Reynosa, Torreon **Russia:** Tosno **Thailand:** Rayong **United Kingdom:** Peterlee
ENERGY & TRANSPORTATION	
Alabama: Albertville, Montgomery **California:** San Diego **Georgia:** Griffin **Illinois:** LaGrange, Mossville, Mapleton, Pontiac **Indiana:** Lafayette, Muncie **Kentucky:** Decoursey, Louisville, Mayfield **South Carolina:** Newberry **Texas:** Channelview, DeSoto, Mabank, San Antonio, Schertz, Seguin, Sherman	**Australia:** Revesby **Belgium:** Gosselies **Brazil:** Curitiba, Hortolandia, Piracicaba, Sete Lagoas **China:** Tianjin, Wuxi **Czech Republic:** Zatec **Germany:** Kiel, Mannheim, Rostock **India:** Hosur, Aurangabad **Mexico:** San Luis Potosi, Tijuana **Republic of Singapore:** Singapore **Sweden:** Ockero Islands **Switzerland:** Riazzino **United Kingdom:** Larne, Monkstown, Peterborough, Sandiacre, Shoreham, South Queensferry, Springvale, Stafford, Wimborne

Caterpillar inventory is stated at the lower of cost or market. Cost is principally determined using the last-in, first-out (LIFO) method. The value of inventory totaled $9.7B at December 31, 2015.

Information about the Cat dealer network is set forth in subsection 2.d. below.

d. Describe your dealer network and their role in providing products, services, etc. under this contract.

Caterpillar Response (only)

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective service territories. Specific information about dealers is located on http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealers currently employ more than 46,000 total employees. 5,500 of these employees are dedicated to machine sales and many

dealers have sales persons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to product support. The dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

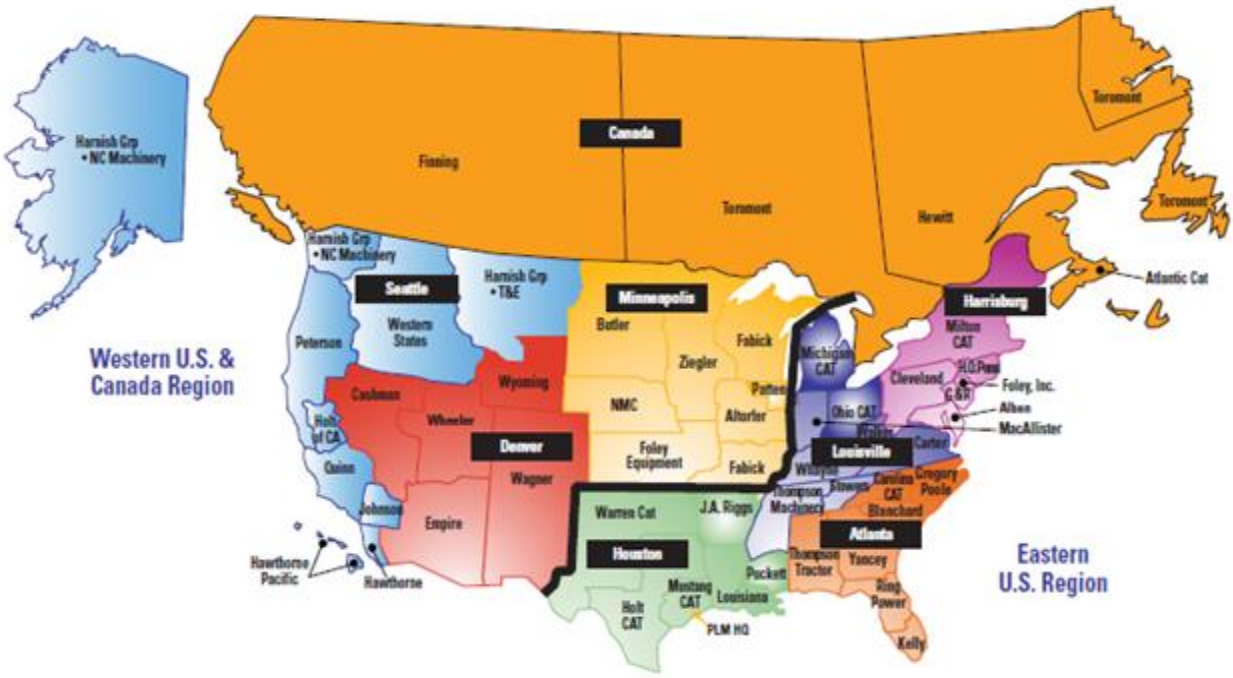

Image 1: North American Dealer Network

3) Product

a. Provide a detailed written response illustrating how the equipment, accessories, parts, supplies and related services offered will meet the requirements of this solicitation. Offerors shall identify and describe their heavy equipment categories. For each proposed category, describe in detail and provide at a minimum the following types of information:

1. Identification and description of equipment categories offered.

Caterpillar Response

Caterpillar is the world's leading manufacturing of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. Caterpillar also provides financing and related services through its Financial Products division.

All products sold by Caterpillar through its dealer network in the United States are included in this proposal. The product lines most relevant to this solicitation included but not limited to:

Construction & Paving Equipment
Articulated Dump Trucks
Asphalt Cold Planers
Asphalt Rotary Mixer
Dozers / Tracked
Dozers / Wheeled
Excavators / Tracked
Excavators / Wheeled
Loaders / Tracked
Loaders / Wheeled
Motor Graders
Paver / Tracked
Paver / Wheeled
Asphalt Compactors - Vibratory
Asphalt Compactors – Pneumatic
Scrapers
Skid Steer Loaders / Wheeled
Compact Track Loaders
Multi-Terrain Loaders
Skip Loaders
Soil Compactors
Telehandlers

Landfill Equipment
Landfill Dozers
Landfill Compactors
Landfill Scrapers

Work Tools (requires host machine)
Buckets
Augers
Thumbs
Hammers
Trenchers
Couplers

Generators & Power Systems
Gas and Diesel Engines
20kW to 16 mW Single Engines
Prime Power
Cogeneration

Please refer to supplemental proposal, Empire Machinery Products and Services subtitled "Allied Products" for additional non-Cat manufactured/ branded lines of equipment offered by Cat dealers for purchase under this contract.

Dealer Response

Empire Machinery represents the full line of Caterpillar equipment as described in Caterpillar's response. Cat Dealers also carry complementary products, that are non-CAT manufactured, that are available in this bid for purchase. These products are referred to as "Allied" products. Please see section 3) under Product, subsection 2. Identification and description of sub categories for a current list of Allied products.

2. Identification and description of sub categories.

Caterpillar Response

Each of the equipment categories above consists of several models of machines that vary by size, horsepower and productivity.

With more than 239 models of Construction and Governmental products offered (not including mining, power generation, and engines), and multiple application-specific configurations, Caterpillar will be able to support virtually any governmental equipment need. Caterpillar is the only manufacturer to offer this many distinct models of machines, configurations and attachments.

A complete current listing with specifications and details is maintained at:

http://www.cat.com/en_US/products/new/equipment.html

Recycling and Waste
Caterpillar is the only manufacturer to offer a full line of machines specifically designed to handle landfill and waste applications.

Specific information can be found on our website at:

http://www.cat.com/en_US/products/new/by-industry/waste.html

Construction Equipment

As the recognized global leader in construction equipment, Caterpillar has repeatedly demonstrated its expertise in helping governments and contractors worldwide continue to develop and maintain infrastructure. Caterpillar has the largest breadth of products to support these applications. Caterpillar continues to lead the industry in investing hundreds of millions of dollars each year in research and development. This ensures that what we sell is high performing, reliable, long lived products resulting in the best overall best value.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/construction.html

Technology & Solutions

Information and data are quickly becoming vital in heavy machine operation and maintenance. Caterpillar is at the forefront with the variety of solutions available to customers. Whether the goal is to track hours and location or to dive deep into operation and maintenance practices, Caterpillar has a technology solution to meet that need.

For more detailed information please visit:

http://www.cat.com/en_US/support/operations/technology.html

Paving

Road building and maintenance are core competencies of the paving division of Caterpillar. We build and support a wide-ranging product line that includes everything from compactors and pavers, to cold planers to road reclaimers.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/paving.html

Work Tools

In addition to machines, Caterpillar will also be offering its full line of work tools to add even more versatility to the host of Caterpillar machines. This will provide an even greater selection of solutions. Caterpillar currently is a leader in both sales and models offered with more than 1800 different work tool options currently available.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/attachments.html

Other/Miscellaneous/Allied

There are other product lines that don't fall neatly into the categories above. Should the City of Tucson have a need for them, they are included as part of this contract and can be offered for sale by Dealers.

Additionally, Dealers often carry lines of complementary products not manufactured or marketed by Caterpillar that can be sold under this contract as allied machines. With this in mind, most of the products listed

in this RFP can be provided either through Dealers as a branded Caterpillar product, or as allied equipment.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Allied products include but are not limited to:

Construction and Mining	**On Road Industrial**
Allmand (Light Towers) Broce Brooms JLG (Man lifts) Mega (Water tanks, Towers and Trailers) Genie (Man lifts and Telehandlers) Progressive Solar (Solar Power Light Plants) Multiquip Power Sullair Air Compressors Rockland (Buckets and Dozer Blades) Paladin (Couplers and Attachments) CE Attachments (Attachments) Dymax (Attachments) Weiler Paving Products (Pavers, Tack Truck & Trailers, Wideners) Wain-Roy	Fuso Trucks Mac Trailers Maintainer (Service Bodies) Murray Trailers (Heavy Haul) Trail King (Small to Heavy Haul) UTB (Service Bodies) Fleming Trailers
Agriculture	**Technology**
Challenger Tractors Massey Ferguson Tractors Rome (Construction Grade Discs and Plows) Woods (Scrapers and Mowers) Gearmore (Attachments) Reynolds (Scrapers) TG Schmeiser (Box blades, Land Levelers) Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	Spectra Precision (Survey Instruments) Trimble (2D and 3D Grading Systems) Accugrade (Caterpillar Grade Control) Seco (Surveying and Site Prep) Laserline (Laser Controls) Apache (Grade Control, GPS and Lasers) Level Best (Laser Grading Box)

Although these additional products and or services will be solely provided and supported by Empire Machinery for the customers within the territory Empire Machinery serves, this list of Allied products is an example for similar products and or services that can be obtained from other Dealers across the country.

Dealer Response

All Caterpillar Dealers, including Empire Machinery, represent the full line of products that Caterpillar describes in their response.

Caterpillar offers the largest number of individual models in the construction and governmental industry, as the table below illustrates. With 239 different models, Caterpillar offers more than 159 machine options than their closest competitor. No matter what the need is, big or small, Caterpillar offers more machine options/configurations to help our customers optimize each machine to customer's specific application in order to help achieve maximum utilization.

Number of unique machines by Manufacturer (Excludes Mining Products)	**Caterpillar**	**John Deere**	**Komatsu**	**Volvo**	**Case**	**Bobcat**
Wheel Loaders	20	15	8	13	12	5
Motorgraders	6	3	1	0	3	0
Dozers	11	7	7	0	6	0
Excavators (not including mining)	38	22	11	21	9	10
Articulated Trucks	6	5	2	5	0	0
Backhoe Loaders	5	4	3	2	2	0
Skid Steer/Compact Track Loader/MultiTerrain Loader	30	12	0	11	10	24
Skip Loaders (Industrial Class)	1	1	0	0	1	0
Landfill Compactors	3	0	0	0	0	0
Landfill Dozers	6	1	3	0	3	0
Forest Machines – Governmental Class	12	7	7	7	2	0
Scrap/Demo Material Handlers	7	0	1	0	0	0
Off Highway Trucks – Governmental Class	4	0	2	0	0	0
Asphalt Rollers – Governmental Class	23	0	0	7	10	0
Asphalt Pavers	8	0	0	6	0	0
Dirt Rollers and Compactors	28	0	0	5	4	0
Cold Planers	5	0	0	0	0	0
Reclaimers/Soil Stabilizers	3	0	0	0	0	0
Telehandlers/Forward Reach Fork Lifts	8	0	0	0	0	0
Wheel Dozers – Governmental Class	2	0	0	0	0	0
Wheeled Excavators	8	0	0	3	0	0
Wheel Tractor Scrapers	5	0	0	0	0	0
Breadth of Caterpillar machines covering Governmental Market	239	77	45	80	62	39

For the City of Tucson and the extended Empire Machinery dealer territory, Empire Machinery offers a line of equipment and work tools that Caterpillar doesn't market or manufacture. These products are commonly referred to in the industry as "Allied Products".

Empire Machinery, as well as the other CAT Dealers across North America, carry a wide variety of Allied products to complement the Caterpillar line as well as fill the gaps of the equipment needs of our customers in all industries.

Although these additional products and or services will be solely provided and supported by Empire Machinery for the customers within the territory Empire Machinery serves, this additional offering provides a relative model for similar products and or services that can be offered by from other Cat Dealers across the country.

The "Allied" products that are included, but not limited to, in this RFP are:

Construction and Mining	On Road Industrial
Allmand (Light Towers) Broce Brooms JLG (Man lifts) Mega (Water tanks, Towers and Trailers) Genie (Man lifts and Telehandlers) Progressive Solar (Solar Power Light Plants) Multiquip Power Sullair Air Compressors Rockland (Buckets and Dozer Blades) Paladin (Couplers and Attachments) CE Attachments (Attachments) Dymax (Attachments) Weiler Paving Products (Pavers, Tack Truck & Trailers, Wideners) Wain-Roy	Fuso Trucks Mac Trailers Maintainer (Service Bodies) Murray Trailers (Heavy Haul) Trail King (Small to Heavy Haul) UTB (Service Bodies) Fleming Trailers
Agriculture	**Technology**
Challenger Tractors Massey Ferguson Tractors Rome (Construction Grade Discs and Plows) Woods (Scrapers and Mowers) Gearmore (Attachments) Reynolds (Scrapers) TG Schmeiser (Box blades, Land Levelers) Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	Spectra Precision (Survey Instruments) Trimble (2D and 3D Grading Systems) Accugrade (Caterpillar Grade Control) Seco (Surveying and Site Prep) Laserline (Laser Controls) Apache (Grade Control, GPS and Lasers) Level Best (Laser Grading Box)

3. Identify accessories, parts, services, etc. that are available through the manufacturer.

Caterpillar Response (only)

All Caterpillar products and services will be provided through Caterpillar's North American Dealer Network.

In North America alone, Cat dealers inventory over $1.0 Billion in protective parts stock to minimize machine downtime for its customers. Caterpillar currently has an industry-leading 24-hour parts fill rate of 99%.

Caterpillar doesn't focus on just the current model parts; we provide the most comprehensive line of legacy and remanufactured parts in the industry.

Most Caterpillar machines are designed for multiple lives, meaning once the first hours of useable life has been met, it can be rebuilt once or in many cases two or three times again. Because of the long life cycles of the Caterpillar product, we make sure we have legacy parts available to ensure that customers get the full life out of their machines at the lowest cost per hour.

In addition to providing legacy parts, Caterpillar boasts the largest availability of remanufactured parts in the Industry. These parts are brought back to new standards and include the same warranty as new parts all while only costing a fraction when compared to new.

Caterpillar also offers a full line of work tools and attachments to add even more versatility to the host machine. This will provide an even greater selection of solutions for the customer. Caterpillar currently holds the market leader position in both sales and models offered with more than 1,800 different work tool options currently available.

4. Identify accessories, parts, services, etc. that are available through the authorized dealer.

Caterpillar Response

In addition to the new machines and power systems mentioned above, Dealers also offer a complete line of OEM repair parts, work tools and attachments.

Services such as repairs, rebuilds, maintenance, financing, extended protection plans, training, consulting, remote monitoring and more are offered by Dealers.

Additional services and other lines of equipment may be available depending on local dealer capabilities.

The purchasing of used equipment and renting equipment is included under this contract and sale/rental prices will follow the same maximum price minimum discount method as purchasing new equipment off this contract. This ensures when purchasing/renting these types of machines they are competitively priced based on like machines in the market place.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Empire's 22 locations in Arizona, with three of those locations positioned in close proximity to the City of Tucson locations, are unmatched by any competitor.

Empire Exclusives:

- Family owned, locally managed by Arizonans who live in Arizona
- Over 1,600 dedicated, tenured and committed employees
- 239 different Caterpillar machine models (governmental) with exhaustive configuration options for each, allowing the City of Tucson to optimize the machine for the application
- Prime and standby power generators
- On-road trucks and trailers
- 36 Allied products that enhance production or reduce time on the job
- Over 540 trained service technicians
- Over 300 field service trucks
- 172 service bays
- Broadest warranty coverage, covering more parts than any competitor in the industry
- Warranty decisions made locally by Empire, not factory representatives
- $93 million in parts inventory
- 161,824 parts line items in stock
- 93.5% parts fill rate over-the-counter anywhere in the State
- 96.24% parts fill rate within 24 hours, anywhere in the State
- 98.3% parts fill rate within 48 hours, anywhere in the State
- 94.97% over-the-counter parts availability in Mesa
- 99.9% parts filled within seven business days, anywhere in the State
- Over 1,800 prime units and 3,000 attachments in our Rental fleets
- Professional, full-time, Caterpillar Certified Operator and Technical Trainers, along with dedicated facilities
- 60 heavy haul transport trucks
- Dedicated Consignment Department to help maximize returns on equipment disposal

Empire alone has more resources than all of our competitors combined. We firmly believe Empire is the only supplier in Arizona uniquely and exclusively qualified to provide the City of Tucson with the lowest Life Cycle Cost/Lowest Cost per Operating Hour.

Empire also offers a worldwide consignment service that has an 89% success rate, with an average days-on-market of 90 days. The majority of the remaining 11% of consignments that do not fall into the "success rate" are made up of machines that the consignor put back to work or non-typical machines such as pavers, curb machines and similar niche products that require a longer marketing time. When you consider historical methods of disposing of older and/or unused machines, this is a good option to consider.

Empire will consign **any brand of equipment** that falls into the scope of machines offered in our proposal. The consignment rate to the City of Tucson will be 9% of the actual transaction price.

For the fee, Empire will be responsible for all aspects of marketing, writing the advertising, advertising worldwide on the internet and, in print where appropriate. We will promote locally in our territory and manage all leads for the agreed upon consignment period. Empire will also be responsible for invoicing and collecting the payment from the buyer. Empire will pay seller within 48 hours of payment (typically less than 24 hours).

We have five dedicated international salesmen, plus 26 in-territory salesmen that actively and aggressively sell our consignment machines. Our consignment program has been a significant portion of our business for over nine years. Disposing of equipment via Empire Consignment realizes an estimated 10%-15% higher net return over a typical disposal using an auction service.

5. Provide descriptions, catalog(s) or website links for accessories, parts and supplies offered.

Caterpillar Response

To see Caterpillar's full line of heavy equipment, work tools, and services please visit: www.cat.com

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Please see the list of website links that Empire has provided for the accessories, parts, and supplies offered:

Manufacturer and Dealer	Website
Caterpillar	www.cat.com
Empire Southwest	www.empire-cat.com
North America Caterpillar Dealers	http://www.cat.com/en_US/support/dealer-locator.html
Construction and Mining	**Website**
Allmand (Light Towers)	www.allmand.com
Broce Brooms	www.brocebroom.com
JLG (Man lifts)	www.jlg.com
Mega (Water tanks, Towers and Trailers)	www.megacorpinc.com
Genie (Man lifts and Telehandlers)	www.genielift.com
Progressive Solar (Solar Power Light Plants)	www.progressivesolarsolutions
Multiquip Power	www.multiquip.com
Sullair Air Compressors	www.sullair.com
Rockland (Buckets and Dozer Blades)	www.rocklandmfg.com
Paladin (Couplers and Attachments)	www.paladin.com
CE Attachments (Attachments)	www.ceattachments.com
Dymax (Attachments)	www.dymaxinc.com
Weiler Paving Products (Pavers, Tack Trucks & Trailers, Wideners)	www.weilerproducts.com
Wain-Roy	www.woodsequipment.com
Agriculture	**Website**
Challenger Tractors	www.challenger-ag.com
Massey Ferguson Tractors	www.masseyferguson.com
Rome (Construction Grade Discs & Plows)	www.romeplow.com
Woods (Scrapers and Mowers)	www.woodsequipment.com
Gearmore (Attachments)	www.gearmore.com
Reynolds (Scrapers)	www.reynoldsinternational.com
TG Schmeiser (Box blades, land levelers)	www.tgschmeiser.com
Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	www.wilcoxap.com
On Road Industrial	**Website**
Fuso Trucks	www.mitfuso.com
Mac Trailers	www.mactrailers.com
Maintainer (Service Bodies)	www.maintainer.com
Murray Trailers (Heavy Haul)	www.murrytrailer.com
Trail King (Small to Heavy Haul)	www.trailking.com/trailers
UTB (Service Bodies)	www.unitedtruckbodies.com
Fleming Trailers	www.flemingtrailers.com
Technology	**Website**
Spectra Precision (Survey Instruments)	www.spectraprecision.com
Trimble (2D and 3D Grading Systems)	www.trimble.com
Accugrade (Caterpillar Grade Control)	www.Caterpillar.com/en
Seco (Surveying and Site Prep)	www.surveying.com
Laserline (Laser Controls)	www.laserlinemfg.com
Apache (Grade Control, GPS and Lasers)	www.apache-laser.com
Level Best (Laser Grading Box)	www.level-best.com

6. Do you offer color choices for each product listed?

Caterpillar Response (only)

Caterpillar machines are painted Caterpillar yellow, which is a copyrighted color and is proprietary. Caterpillar will meet customers' unique paint color requirements for an additional fee which must be quoted and agreed to prior to the start of build.

b. Describe descriptions, catalog(s) or website links for accessories, parts and supplies offered, including:

1. types of warranties available (by category or equipment)

Caterpillar Response

Caterpillar is proud to offer robust warranty for its products.

Caterpillar machines come with standard warranties against defects in material and workmanship. Warranty inclusions and exclusions will vary by product and details can be provided at any point in the purchase process.

The majority of new machines included under this solicitation will qualify for 12 months/unlimited hours warranty. Some products, notably compact track loaders and mini excavators, qualify for 12 months/1500 hours warranty.

Additional extended equipment protection plans can be customized to meet each customer's specific need. The following is an example of some of the options that would be available through the local supporting Cat dealer.

140M3 Motor Grader	Months	Hours
Premier	24 to 84	5000 to 7500
Powertrain & Hydraulics	24 to 84	5000 to 10000
Powertrain	24 to 84	5000 to 10000

Please note that all manufacturers' warranties and/or extended coverage plans do not cover the same components and/or systems that Caterpillar's protection plans cover. Repairs and or replacement of components not covered by other manufacturers can present a significant cost to the overall ownership of a machine. The breadth of coverage provided through Caterpillar's coverage plans re-emphasizes the confidence Caterpillar has in its products as well ensures the lowest total cost solution for our customers.

Also, please reference the two examples of typical warranty statements which are attached to this proposal.

For expanded explanation of the benefits of Caterpillars warranty, please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire/Caterpillar Warranty Offerings:

Caterpillar offers a wide range of warranties that can be custom built to best match the needs of our customers. There are two (2) basic Caterpillar warranties available: Standard and Extended

- Caterpillar Standard Warranty - All new Caterpillar manufactured machines come with Caterpillar's "Premier" warranty for 12 months, with unlimited hours, at no additional cost to the buyer. (See warranty details below under "Caterpillar Extended Warranty".)
- Caterpillar Extended Warranty – Begins at expiration of Standard Warranty. Caterpillar Insurance and Caterpillar dealers provide a vast array of optional warranties that can be customized by the length of time (from 2 - 7 years) and/or by the hours (2,000 - 10,000 hours).

There are three (3) types of extended warranties available from Caterpillar:

- Powertrain Only – Covers the components that are used to either produce, transmit or control engine horsepower for propelling (moving) the machine; such as engine, transmission, final drives, axles, and brakes.
- Powertrain and Hydraulics – Covers all the items above plus hydraulic hoses, lines, pumps, valves, cylinders, hydraulic coolers, and hydraulic filter mounts.
- Premier – Includes all of the above with the addition of starters, alternators, pulleys, AC condensers, air conditioning compressors, fuel lines, fuel tanks and associated parts, water piping, radiators, mufflers, electrical indicators, gauges, instruments, wiring harness, switches, joysticks, relays, circuit breakers, frames and chassis, and weldments.

General Warranty Information

Coverage - Inclusions, Exclusions

Standard machine warranty and extended warranties between manufacturers and dealers are not equal. There is no industry standard of items "to be included or excluded" in the scope of either coverage.

Repairs and/or replacement of components excluded by competitive manufacturers can present a significant expense or savings to the overall ownership of a machine. The breadth of coverage provided through Caterpillar's coverage plans re-emphasizes the confidence Caterpillar has in its products, as well as ensuring the lowest total cost solution for our customers.

Warranted claims will be presented by the customers to the supporting Caterpillar Dealer and will be administered at the local level. Empire will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customers.

Caterpillar machine warranties are the most comprehensive, covering more parts, more expensive parts, and excluding fewer items, in the industry. This results in lower expense exposure to the owners of Caterpillar equipment.

In comparing major manufacturers' stated warranty coverage listed in publicly available warranty documents, here is an example of parts (including their replacement labor) that are excluded by many manufacturers, but are included by Caterpillar Standard Warranty:

- Radiators
- Mufflers
- Starters
- Alternators
- AC Condenser/Compressor
- Fuel lines
- Hydraulic hoses and lines
- Gauges
- Wiring harnesses
- Frames and structures

Each of these individual items vary between different manufacturers, but they provide evidence that a buyer should consider the coverage of each to fully understand the true scope of their exposure, and calculate that exposure into the total machine price, from an operating cost perspective.

Beyond the firm boundaries of inclusions and exclusions of warranty, Caterpillar dealers utilize a "Fair Value" policy. Fair value is simply the process and procedures that rely on ethical and reasonable decisions to participate in a repair expense beyond warranty coverage. Fair value rules are not described in any written form; they take place when a Caterpillar Dealer and end user experience an event where both feel that the failed part did not meet expected life in a given application.

Once misapplication, abuse or misuse conditions are excluded, fair value reimbursement comes in a variety of forms: From full reimbursement to a shared expense, based on remaining normal life of the failed part, between Caterpillar Inc., Empire and the customers.

Additionally, Caterpillar warranties cover consequential damages. Some major and most minor brands do not. Example: A turbo fails, injects a part from the turbo into the cylinder head, and then destroys the head and piston; piston fracture penetrates the engine block. The turbo is the root cause, but Caterpillar warranty covers the entire repair of consequential damages.

View below to see the inclusions and exclusions of each of the three types of warranties Caterpillar offers:

✓ Represents covered items in their respective category

** Represents items typically excluded by most other manufacturer's warranties, but are included under Caterpillar's warranty coverage.

Engine & Accessories	Powertrain	Powertrain + Hydraulics	Premier
Engine – Internal Components	✓	✓	✓
Valve Cover	✓	✓	✓
Oil Cooler BHL	✓	✓	✓
Radiator			✓
Exhaust/Muffler			✓
Manifolds	✓	✓	✓
Fan Motor	✓	✓	✓
Water Pump	✓	✓	✓
Fuel Injection Pumps	✓	✓	✓
Injectors	✓	✓	✓
Lift/Transfer Pump	✓	✓	✓
Senders/Solenoids/Sensors	✓	✓	✓
Thermostat	✓	✓	✓
Flywheel & Torque Converter	✓	✓	✓
Oil Pan Group	✓	✓	✓
Engine Oil Filter Mount **	✓	✓	✓
Turbocharger	✓	✓	✓
Pulleys **	✓	✓	✓
Starter			✓
Alternator			✓
AC Compressor/Condenser			✓
Electronic Control Modules	✓	✓	✓
Governor/Speed Controls & Linkages **	✓	✓	✓
Fuel Lines **	✓	✓	✓
Fuel Tank & Associated Parts			✓
Water Piping			✓
Oil Hoses/Lines			✓
Transmission/Hydrostatic/Driveline	**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Transmissions	✓	✓	✓
Final Drives/Planetary	✓	✓	✓
Drive Shafts	✓	✓	✓
Transfer Case	✓	✓	✓
Wet brake assemblies	✓	✓	✓
Hydrostatic Pumps & Drive Motors **		✓	✓
Linkage/Lines Connected to Hystat Pump **		✓	✓
Drive (pilot/eh) Control Valves **	✓	✓	✓
Senders/Sensors **		✓	✓

Axles		Powertrain	Powertrain + Hydraulics	Premier
Axles		✓	✓	✓
Axle Seals	**	✓	✓	✓
Lug Nuts & Bolts	**	✓	✓	✓
Differentials		**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Differentials		✓	✓	✓
Hydraulic Systems		**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Hydraulic Pumps & Motors			✓	✓
Hydraulic Cylinders			✓	✓
Hydraulic Valves & Controls			✓	✓
Hydraulic Accumulators	**		✓	✓
Hydraulic Oil Coolers	**		✓	✓
Hoses and Lines	**		✓	✓
Hydraulic Quick Couplers	**		✓	✓
Hydraulic Oil Filter Mounts	**		✓	✓
Electrical		**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Gauges/Indicators/Instruments	**			✓
Wiring harnesses	**			✓
Switches	**			✓
Frames & Linkages		**Powertrain**	**Powertrain + Hydraulics**	**Premier**
Chassis/Implement Frames	**			✓
Weldment	**			✓

Allied Product Warranty:

Allied products are excluded from the above terms and conditions. All Allied products will be sold with the manufacturer's standard warranty. This warranty differs from manufacturer to manufacturer. If extended warranty is available and the City of Tucson requests extended options from an Allied manufacturer, Empire will provide the price on a case by case basis.

2. description of your warranty claims procedures.

Caterpillar Response

Caterpillar warranty is administered by the Dealers. Dealers are best positioned to see that the customer receives outstanding service for their warranty repairs.

Warranted claims will be presented by the customer to the supporting Dealer and will be administered at the local level. The supporting Dealer will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customer.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire Service utilizes a highly structured, fact based and scientific Root Cause Failure Analysis process that is followed by Empire's Service Department. The process ensures the customer that Empire and Caterpillar fully understand the cause, and what role each affected part played in the failure, in order to help prevent it in the future.

The warranty process for Caterpillar machines is unique to the industry, allowing Empire to decide through its due diligence alone, if the failed part is covered under the scope of warranty. In the event of a warranty repair, Empire is responsible for repairing the machine. Once the repair is completed, the warranted parts and labor is charged to Caterpillar.

Any non-warranty covered items (such as oil antifreeze; fluids that cannot be reused) will be the responsibility of the owner. In the event that Caterpillar concludes a different root cause and believes it was caused by misapplication or misuse and rejects reimbursement, and Empire does not, Empire will absorb the expense.

3. description of your policy addressing warranty issues related to:

    i. Major Component Failures
    ii. Engineering Deficiencies
    iii. Describe your firm's standard response time to address warranty failure issues.

Caterpillar Response

Caterpillar is proud to offer robust warranty for its products.

All defects in materials and workmanship are fully covered under the warranty period. All claims will be investigated by the supporting Dealer and determined whether they fall under the warranty policy or under the category of normal repair and maintenance.

Of course if there is a major component failure significantly earlier than its predicted life, the dealer will investigate to determine the likely cause of failure. Should the cause be determined to be design or manufacturing related, the customer, Dealer, and a Caterpillar representative will work together to find a solution that is agreeable to all parties.

There is not a nationwide warranty response time guarantee because machines, applications, repair requirements and availability needs will vary by geography and customer. In every situation, the Dealer will work to resolve warranty issues as quickly as possible and/or provide an interim working solution.

For additional information regarding the description of policy addressing warranty issues related to; Major Component Failures, Engineering

Deficiencies, and Empire Machinery's standard response time to address warranty failure issues, please refer to the supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

As America's #1 dealer rebuild center, Empire inventories new complete components, along with remanufactured components, for replacement when a machine is down and the customer requires an emergency complete component replacement. Beyond Empire's extensive parts inventory, Caterpillar parts distribution warehouses across America and the globe also inventory an extensive selection of new components and remanufactured components.

Excluding emergency complete component replacement, Empire will bring to bear as many resources as possible to tear down and reassemble the down component, to return the machine to production as fast as humanly possible. This includes our staff working three shifts and/or weekends continuously or "around the clock" to achieve the turnaround if warranted. Normal warranty coverage will only cover normal (non-overtime) shop labor rates, during normal service hours. Normal service hours are from 5:00 a.m. to 12:00 midnight, Monday-Friday and from 6:00 a.m. until 12:00 noon on Saturdays.

Overtime rate is charged for all hours worked on holidays. No other competitor that we are aware of provides this expanse of available normal service hours. When requested, Empire will work overtime with the incremental overtime fee charged to the City of Tucson. Normal warranty coverage only includes shop labor rates during normal business hours and thus could result in overtime charges to the customer. Additionally, parts that are not normally stocked may include a customer charge for additional freight or handling, depending on circumstances.

Engineering Deficiencies: Empire and our customers benefit from a long relationship with Caterpillar Engineering for new machines and product improvement testing. Because of our unique Arizona/Imperial County, California and territory, Caterpillar engineers prefer to test new machines and product improvements in Empire's territory because of the range and access to high ambient temperature, high altitude, sea level altitude, abrasive dust, hard caliche and granites soil and sand (dune) conditions. Our applications range from farming to forestry harvesting, to hard rock mining.

This multi-decade experience has provided Empire staff with a wealth of knowledge, experience, relationships and access to Caterpillar's engineering staff around the world. It has provided our customers with purpose-built machines and components tested here to perform here. This experience helps our staff identify a deficiency, quickly begin to test our possible solution, and offer it to Caterpillar; or fabricate, install and test Caterpillar's solutions.

Empire's standard response times are based on the fact that our customer purchases a new machine because unscheduled downtime creates critical disruption to their production. Most customers expect that we will handle every machine-down warranty event like an emergency. We are "built for it". Empire invests and maintains the staffing capacity to provide

customers two shifts per day, plus single shift on weekends and on-call staff for holidays to respond to these events with the utmost urgency.

Beyond this, a failure on Empire's part to deliver expected or promised service is always taken into account before any request for additional charges are presented to a customer. We take pride in the fact that Empire's owners expect all employees to consider first how we may have contributed to increasing a customer's expense or downtime. We are empowered, at all levels, to make ethical and fair charge adjustments before approaching a customer about additional expense to warranty coverage.

c. Is there a dedicated support representative that the City should contact? If yes, provide their name and complete contact information.

Caterpillar Response

For all support related to this contract, the account manager at Caterpillar is:

Patty Redpath
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

For specific product support at Empire Machinery, please refer to the supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

For all support related to this contract, please contact:

Clinton Swapp
Sales Account Manager
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8213
Cell: 520-240-8213
Email: Clinton.Swapp@empire-cat.com

Ty Robertson
Product Support Sales Representative
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8226
Cell: 520-269-1171
Email: Ty.Robertson@empire-cat.com

d. Provide information which details the costs, types, and extents of available extended warranty coverage for heavy equipment.

Caterpillar Response

Additional extended protection plans are available for purchase. Three major types of protection are generally offered: Powertrain, Powertrain + Hydraulics and Premier. Customization of Extended Protection Plans is also an option available through our dealer network.

The costs for these extended plans vary by product, type of coverage, machine application and length of coverage. Because Dealers are independently owned businesses with widely varying geographic service territories, the actual costs

associated with supporting such warranties will vary and cannot be quoted on a national scale by Caterpillar as fixed amounts.

Such factors include but are not limited to the Dealer's shop labor rates, transportation costs both for the machine as well as the technician and many others. It is recommended that warranty and extended protection plan considerations be clearly stated and agreed to prior to any transaction as a result of this contract.

For expanded explanation of the benefits of Caterpillars warranty please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

With over 360 different Caterpillar products covered in this solicitation, and with over 65 different options for each of those machines with time and hour combinations, the matrix of extended warranty pricing would be too large to provide in this format.

Additionally, because of the competitive exposure, we are not at liberty to provide for public record, all of Caterpillar Insurance Extended Warranty pricing. For this proposal, we will provide requested rates on a model-by-model, term and hour specified basis.

e. Describe how your firm is anticipating and ensuring compliance with the Environmental Protection Agency (EPA) emission changes.

Caterpillar Response

Caterpillar fully supports the efforts of the Environmental Protection Agency and we are proud to offer the largest number of machines compared to competitors, meeting Tier 4 final emissions requirements. All new machines are fully compliant under current emissions regulations which do vary by horsepower and intended use.

Managing a broad global product line is challenging so to ensure we are properly prepared for any additional regulations, Caterpillar has a dedicated team of experts that works very closely with EPA officials.

In 2016, Caterpillar was once again named to the prestigious Dow Jones Sustainability Index (DJSI) List, marking the 17th time we have been included in the DJSI. Caterpillar leads its global peers in the Capital Goods sector in the areas of innovation management, risk and crisis management, labor practices and human rights, as well as corporate citizenship and philanthropy.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire's technical resource group (similar to all Caterpillar dealers) has been engaged with Caterpillar engineers throughout the development of Tier 1, Tier 2, Tier 3, Tier 4i and Tier 4 Final since the Federal regulations were implemented.

Empire's (and our customers') ongoing participation of Caterpillar "Field Follow" program of prototype machines operated by customers in our territory, provides Empire both a first look and a wealth of experience in service support before production machines are ever produced for sale or delivered to a customer. Additionally, Caterpillar offers remanufactured exchange filters and Empire stocks them.

As of this submittal, it is becoming more apparent that exchange emission filters available from our parts department are faster, safer, more environmentally responsible and more economical for the customer than the other option of maintaining a DPF cleaning machine at our dealership stores. For redundant support, Empire owns and operates a DPF cleaning machine in our Phoenix store in the event of an unexpected supply disruption from Caterpillar.

Along with the above service capacity, Empire provides on-line information, updated regularly, for the City of Tucson managers, supervisors and operators to help them understand how the technology works. Tips and warnings are constantly updated to help our customers stay informed and reduce the risk of emissions solutions damage. Empire requires continuing education for our Sales and Product Support staff as an incremental resource that helps customers stay informed. Our operator trainer staff is always available to our customers for on-the-job operator education of the technology.

f. Submit all information that will aid the City in evaluating your proposal

Caterpillar Response (only)

To view Caterpillar's achievements in sustainability, please view our most recent Sustainability Report at:

http://www.caterpillar.com/en/company/sustainability.html

Also, please note the industry awards Caterpillar has received in the last few years.

Roads and Bridges is a highly regarded industry trade publication devoted to equipment owning and operating customers. Each year Roads and Bridges publishes a list of equipment models and categories that have been identified by these customers as being the best in class for their respective categories and size classes.

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Year	Category	Level	Model
2015	Asphalt Pavers	Gold	CAT AP1055E
2015	Asphalt Pavers (Small)	Gold	CAT AP555E
2015	Asphalt Screeds	Gold	CAT AS3301C
2015	Compaction (Asphalt)	Gold	CAT CB54B
2015	Compaction (Soil)	Gold	CAT CS56B
2015	Concrete Breakers	Gold	CAT H120Es
2015	Dozers	Gold	CAT D6T
2015	Excavators	Gold	CAT 323F
2015	Loader Backhoes	Gold	CAT 420F
2015	Mini Excavators	Gold	CAT 308E2
2015	Motor Graders	Gold	140M2
2015	Recyclers/Reclaiming Machines/Soil Stabilizers	Gold	CAT RM500
2015	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2015	Specialty Excavators	Gold	CAT 335F
2015	Telehandlers	Gold	CAT TH514C
2015	Trucks (Off-Highway)	Gold	CAT 772G
2015	Wheel Loaders	Gold	CAT 938K
2015	Asphalt Milling Machines	Silver	CAT PM200
2015	Skid-Steer Loaders	Silver	CAT 259D
2015	GPS/Laser-Guided Equipment	Bronze	Cat Grade Control
2014	Asphalt Pavers	Gold	CAT AP1055E
2014	Asphalt Pavers (Small)	Gold	CAT AP555E
2014	Asphalt Screeds	Gold	CAT AS3301C
2014	Compaction (Asphalt)	Gold	CAT CB54B
2014	Compaction (Soil)	Gold	CAT CS56B
2014	Concrete Breakers	Gold	CAT H120Es
2014	Dozers	Gold	CAT D6K2
2014	Excavators	Gold	CAT 336E H
2014	Loader Backhoes	Gold	CAT 420F
2014	Mini Excavators	Gold	CAT 308E2
2014	Motor Graders	Gold	14M2
2014	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2014	Specialty Excavators	Gold	CAT 328D LCR
2014	Telehandlers	Gold	CAT TH514C
2014	Trucks (Off-Highway)	Gold	CAT 773G
2014	Wheel Loaders	Gold	CAT 938K

2014	Recyclers/Reclaiming Machines/Soil Stabilizers	Silver	CAT RM500
2014	Skid-Steer Loaders	Silver	CAT 299D
2014	Asphalt Milling Machines	Bronze	CAT PM200
2013	Concrete Breakers	Gold	CAT H90C
2013	Asphalt Pavers	Gold	CAT AP1055E
2013	Asphalt Pavers (Small)	Gold	CAT AP555E
2013	Asphalt Screeds	Gold	CAT AS3301C
2013	Compaction (Asphalt)	Gold	CAT CB64
2013	Compaction (Soil)	Gold	CAT CS56
2013	Recyclers/Reclaiming Machines/Soil Stabilizers	Gold	CAT RM500
2013	Track type Tractors (Dozers)	Gold	CAT D6T
2013	Excavators	Gold	CAT 320D L
2013	Specialty Excavators	Gold	CAT 328D LCR
2013	Loader Backhoes	Gold	CAT 420E
2013	Mini Excavators	Gold	300.9D
2013	Telehandlers	Gold	CAT TH514
2013	Wheel Loaders	Gold	CAT 930H
2013	Off-Highway Trucks	Gold	CAT 775G
2013	Motor Graders	Gold	12M2 AWD
2013	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2013	GPS/Laser-Guided Equipment	Silver	Cat Grade Control
2013	Skid-Steer Loaders	Silver	CAT 259B3
2013	Asphalt Milling Machines	Bronze	CAT PM200
2013	On-Highway Trucks	Bronze	CT660

Included Links for additional Road and Bridges information:

http://www.cat.com/en_US/articles/customer-stories/awards/cat-products-receive-top-100-and-contractors-choice-awards.html

http://www.cat.com/en_US/articles/customer-stories/awards/cat-products-receivecontractorschoiceawardsin19categories.html

http://www.cat.com/en_ID/articles/customer-stories/cat-products-receivecontractorschoiceawardsin21categories.html

The following is a list of additional industry accolades that Caterpillar has received in recent years:

- Caterpillar Ranked #82 on Interbrand's Best Global Brand List
- Caterpillar wins 2016 ANNY excellence in analytics award
- Caterpillar's Commitment to Sustainable Development Recognized by United Nations

- Caterpillar helps to protect 2,100 acres of coastal wetlands in California
- Caterpillar Awarded the Vision for America Award from the Keep America Beautiful Organization
- Caterpillar named finalist for prestigious sustainability honor – Circular Economy Award
- Caterpillar ranked 12 on the "Top 50 Employers" list in Women Engineer Magazine
- Caterpillar Named One of Fortune's World's Most Admired Companies In 2015
- Caterpillar Recognized on Interbrand's 2014 Best Global Green Brands
- Caterpillar named on Diversity Inc's Top 25 Noteworthy Companies for Diversity List for 2014
- Caterpillar of Australia Recognized For Commitment To Workforce Diversity
- Caterpillar Named One of North Carolina's Best Employers of 2014 by Business North Carolina
- Caterpillar Celebrates 60 Years in Brazil and is Chosen One of the Best Workplaces in the Country
- Caterpillar Named One of FORTUNE's World's Most Admired Companies in 2014
- Caterpillar Receives National Recognition for Hurricane Sandy Response
- Caterpillar Named a North Carolina Top 50 Family-Friendly Company
- Caterpillar Recognized for Supplier Diversity
- Caterpillar is #12 most Reputable Big Company
- Caterpillar ranked 27 on Fortune Magazine's list of the Worlds Most Admired Companies
- Caterpillar ranked 12 on the "Top 50 Employers" list in Women Engineer Magazine
- Caterpillar World Headquarters Awarded LEED-EB Gold from US Green Building Council
- Caterpillar China Wins 100 Best HR Management Companies of 2010
- Illinois Governor's Pollution Prevention Award
- Caterpillar World Headquarters Awarded US EPA Energy Star
- Caterpillar receives the International Pipeline and Offshore Contractors Association award for Eco Operator Training
- Caterpillar in Top 20 of Social Responsibility Ratings
- Caterpillar Chairman receives Distinguished Citizen Award
- Caterpillar Inc. Recognized as one of the World's Most Ethical Companies
- Newsweek Green Rakings ranks Caterpillar 72nd out of top 500 companies, 3 of top 20 industrial goods.
- Caterpillar ranked #9 on the 19th Annual "Top 50 Employers" list in Women Engineer magazine

4) Service

a. Provide a detailed written response illustrating how your firm or the authorized dealers will provide services to meet the requirements of this solicitation. Offerors shall provide the proposed services that will meet the Service Requirements section of the Scope of Work outlined in this solicitation. For each proposed category, describe and/or provide details explaining your capabilities. In your response include information such as:

1. Provide detailed information explaining your service capabilities.

Caterpillar Response (only)

Caterpillar takes great pride in our foundation of outstanding product and customer support. While the actual service and support of products sold through this contract will be conducted by the selling dealer, Caterpillar supports their efforts through many channels.

We start by designing durable, reliable, long-lived products with ease of operation and service in mind. These products are thoroughly tested to validate the design. When approved for production, a very strict protocol is put into place to ensure strict adherence to the build plan. Quality inspections occur throughout the manufacturing process and again when it arrives at the local dealership.

Prior to first shipment, Caterpillar ensures that Dealer has access to Owning & Operating Manuals, Service Manuals, Parts Books, and Disassembly & Assembly Manuals.

Every Dealer has a process in place to troubleshoot and diagnose problems. Caterpillar also maintains a field force of technical representatives to ensure customer downtime is minimized. Factory service engineers work very closely with Dealers in situations where a problem cannot be easily resolved and engage all resources necessary for problem resolution.

2. Provide detailed information explaining the service capabilities of your authorized dealers.

Caterpillar Response

Caterpillar and Cat dealers offer industry leading product support. Field Service trucks with resident field technicians and parts drops provide a level of service unmatched in the industry to reduce down time and increase productivity.

All participating Dealers employ trained, experienced technicians to support Caterpillar's full range of products. Dealer Technical Communicators (TCs) provide additional support to field/shop technicians to aid in rapid product or application resolution. Dealer TCs have a direct line of communication with Caterpillar Inc. through the Dealer Solution Network to expedite problem solving.

Caterpillar's North American dealer network currently employs over 46,000 employees of which approximately 70% are dedicated to the product support business. With nearly 700 dealer branch locations and approximately 7,000 field service personnel, these highly skilled and trained Cat dealer technicians are in close proximity to provide unmatched service capabilities to meet your servicing

requirements. As a commitment to servicing our customers, Cat dealers invest over $75 Million annually in technician, parts counter, and product support representative training. Over the last 90 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry through a financially healthy and viable dealer network that is dedicated to the business of our customers.

Caterpillar's ability to meet 24-hour service needs is based on servicing dealer discretion at time of transaction. However, most dealers offer a 24-hour emergency service call-out option with a price based on local rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

Image 2: US Dealer Locations

Dealer Response

All 22 Empire stores are capable of warranty service and have trained technicians to support warranty.

For very large components, some remote branch stores may not have the heavy lifting infrastructure or highly specialized machining tools to complete every job. Those components may be shipped to the closest Empire facility that can complete the work. All such transportation will be handled by Empire internally.

EMPIRE LOCATIONS	TELEPHONE	ADDRESS	
Apache Junction	480-308-9100	3215 S. Winchester Rd.	85119
Blythe	760-921-9500	190 S. Intake Blvd.	92225
Buckeye	623-925-3020	26403 MC 85 Buckeye	85326
Buckeye	623-474-0840	25630 W. Durango St.	85326
Casa Grande	520-374-3500	8901 W. Highway 287	85194
Deer Valley	623-760-1100	21230 N. Black Canyon Hwy., Phoenix	85027
Eloy	520-582-2900	3501 W. Houser Rd.	85131
Flagstaff	928-526-2800	4900 E. Empire Ave.	86004
Globe	928-402-6410	190 W. Ash St.	85501
Imperial	760-355-2443	3393 Highway 86	92251
Kingman	928-757-1159	3255 E. Rutherford Dr.	86409
Mesa	480-633-4000	1725 S. Country Club Dr.	85210
Mesa	480-633-4421	256 W. Juanita Ave.	85210
Nogales	520-287-6630	350 N. Mariposa Rd.	85621
Peoria	632-707-1700	9802 N. 91st Ave.	85345
Phoenix	602-333-5600	801 N. 44th Ave.	85009
Phoenix	602-627-5700	840 N. 43rd Ave., Phoenix	85009
Prescott	928-499-6001	3060 Centerpointe East Dr.	86301
Safford	928-387-8700	444 W. Old Country Club Rd.	85546
Show Low	928-532-2098	1501 E. Thornton St.	85901
Tucson	520-746-8200	7600 S. Nogales Hwy	85756
Tucson	520-407-3100	3830 N. Highway Dr.	85705
Yuma	928-317-7800	3885 E. Gila Ridge Rd.	85365

Image: Empire locations

3. Describe the maintenance programs offered. If a maintenance program is selected by the City, will your firm provide a loaner or rental machine if the machine is down for more than 24 hours?

Caterpillar Response

All Cat Dealers can customize maintenance programs for their customers based on each customer's individual needs. When a service or maintenance program is created, the terms of the program supported by the local Cat Dealer will outline any replacement / loaner options.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

As described in Caterpillar's response, Empire and other CAT Dealers can customize maintenance programs to fit the specific needs of our customers.

The pricing for maintenance services explained below can vary based on the model, hours of usage, and duration of agreement, and can be quoted on an individual basis.

The following are some examples of the different maintenance agreements that are available:

- PM (Preventative Maintenance) Services

  PM services are broken into five (5) categories and follow the manufacturer's service recommendations, or can be customized to meet customers' needs.

  - PM1 – Services the manufacturer recommends at 250 hours
  - PM2 – Services the manufacturer recommends at 500 hours
  - PM3 – Services the manufacturer recommends at 1,000 hours
  - PM4 – Services the manufacturer recommends at 2,000 hours
  - PM5 – Services the manufacturer recommends at 4,000 hours

  Empire and participating dealers can offer different options for these hour intervals including:

  - Parts only agreements
  - Parts and fluids only agreements
  - Parts, fluids, and labor agreements

Please see generalized chart below for the services performed at each PM interval.

	PM1 250 hours	PM2 500 hours	PM3 1000 hours	PM4 2000 hours	PM5 4000 hours
Change Engine Oil, Engine Oil Filters and take engine oil sample	x	x	x	x	x
Speed Reducer Oil Gets Changed and Sampled (On Elevator Scrapers)	x	x	x	x	x
Check all fluids levels such as Transmissions, Differentials,	x	x	x	x	x
Tandems, Hydraulic, Steering, Coolant. Change fuel filters and fuel /water separators,	x	x	x	x	x
clean fuel bowl screen (replace if neccessary)					
Change Primary Air Filters	x	x	x	x	x
Check Coolant Condition - Freeze point	x	x	x	x	x
Perform and record a visual walk around of equipment as per OEM including but not limited to Back up alarm, tires, batteries, belts, ground engaging tools (cutting edges, bucket teeth, dozer blade, Moe board, buckets, bowl (can), ripper shanks)	x	x	x	x	x
Change cab A/C filters	x	x	x	x	x
Lubricate all grease points	x	x	x	x	x
Inspect and test all visible and safety systems	x	x	x	x	x
Change all filters this includes hydraulic filters, transmission		x	x	x	x
filters, differentials filters if applicable.					
Change rear differential oil (Backhoe Loaders oly on A-D Models)		x	x	x	x
Change front wheel oils in off highway trucks.		x	x	x	x
Change the Transmission oils, clean transmission screens and magnetic			x	x	x
Change swing drives oils on excavators , change			x	x	x
differential and finals oils on backhoes.			x	x	x
Change hydraulic oils on AG tractors, telehandlers, vibratory			x	x	x
compactors only, change chain case oils on skid steer loaders.			x	x	x
Change circle drive oil on motor graders			x	x	x
Change the differential and finals oils				x	x
Change tandem oil drive oils on motor graders				x	x
Change circle drive oils on motor graders accoding to OEM				x	x
Change hydraulic system oil.					x

- **Total Maintenance and Repair (TM&R):**

  In a TM&R agreement, Empire and participating dealers will completely cover the equipment for any agreed upon repairs and preventative maintenance services for the duration of time and usage hours as specified by the agreement, based on the customers' needs.

  TM&R's can be customized by the customer, including the following:

  - With/without travel
  - With/without scheduled component rebuilds

- Powertrain & Hydraulics
- With/without certain PM services
- With/without daily maintenance & cleanings
- With/without daily fueling

Exclusions in most cases include the following:

- Tires
- Glass
- Fuel
- GET replacement
- Components that contact the ground (bucket, blade, bed, bowl, etc.)
- Misuse and abuse
- Paint
- Any repairs due to customer not following the Original Manufacturer's Manual (OMM).

- **Man on Site Agreement:**

  This type of an agreement can be offered on a stand-alone basis or in conjunction with other maintenance agreements for any customer that does not have the qualified staff/technician(s) or, is unable to add them.

  Empire and participating dealers will provide a "man on site" for any duration of usage hours and time: Day, week, month, as specified by the agreement.

  The technician will usually perform:

  - Running repairs
  - Preventative maintenance services

  Other onsite services could include:

  - Daily inspections
  - Cleanings
  - Operational checks

  The "man on site" agreement includes a qualified technician, field service truck, and the tools needed to perform basic repairs.

  Additional "man on site" Inclusions or exclusions in most cases include the following:

  - Housing (when applicable)
  - Overtime rates

- Unique equipment tooling costs: Large cranes, cribbing, certified shops, contamination control, etc.
- Percentage of guaranteed availability

- **Daily Fuel and Lube Agreement**

  Empire, and participating dealers can provide daily fueling and grease to any machine at any of the City of Tucson sites, for any duration of time and/or usage hours to the specified needs of our customers.

  Inclusions and exclusions in most cases include:

  - With/Without daily cleanings.
  - With/without daily inspections

We do not provide loaner machines. Empire will provide a down machine rental discount program (see details below).

For dealers representing any brand, contractual loaner guarantees have an incalculable financial risk. No dealer can guarantee 100% of the time that they will have a like-kind machine available and ready at any given moment.

But, this deserves more explanation:

Our highly valued relationship with the City of Tucson demands we consider loaners in certain circumstances. However, that decision must remain solely at Empire's discretion and it will be one of several possible solutions for a down machine that creates a critical hardship.

At a minimum, Empire will provide a subsidized rental machine that is either an exact match or based on the City of Tucson's input, adequately sized unit at a 50% discount from Empire's rental rate. The City of Tucson will be responsible for the normal rental wear items associated with a rental for the duration of time the down machine is under warranty.

Additionally, if a down machine is causing a hardship to the City of Tucson from a habitual issue that Empire has not yet solved, the probability is high that Empire will provide a loaner at no cost to the City of Tucson, other than wear items. But again, that decision must remain solely with Empire.

Field Service trucks with resident field technicians and parts drops provide a level of service unmatched in Empire's territory to reduce down time and increase productivity.

Empire only employs trained, experienced technicians to support Caterpillar's full range of products. Empire Technical Communicators (TC) provide additional support to field/shop technicians to aid in rapid product or application issue resolutions. Empire TC's have a direct line of communication with Caterpillar Inc., through the Dealer Solution Network, to expedite problem solving.

Empire currently employs over 1,600 employees, of which approximately 73% are dedicated to product support. With over 22 service locations, over 170 service bays and over 290 field service trucks, these highly skilled and trained Caterpillar trained

technicians are in close proximity to provide unmatched service capabilities to meet your service requirements.

As part of a commitment to servicing customers, Empire invests nearly $3 million annually in technician, parts counter, and product support representative training. Over the last 65 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry, through a financially healthy and viable company that is dedicated to the business of our customers.

4. Describe your training programs, addressing, at a minimum, the following:

   i. How will equipment training be conducted?
   ii. Describe the training curriculum for the equipment operators.
   iii. Describe the training curriculum for the service technicians.
   iv. How will you accommodate various work shifts?
   v. What type of documentation is provided with the proposed training?
   vi. Is a "train the trainer" program available? Is this training different than the regular initial training? Can training sessions be recorded for future use by the agency?
   vii. Is the training provided by the manufacturer, dealer or both?

Caterpillar Response

Dealers support a variety of training options. Upon delivery of the machine, operators as well as technicians will be given basic equipment orientation, operating procedures, and service maintenance information required to put the machine into service. Should an agency require additional training, such consideration can be included in the customer's equipment quotation.

Caterpillar also offers a variety of operator training classes that provide certification to those agencies that require a higher level of operational expertise.

For additional information on these and other training options, please visit: http://www.cat.com/en_US/support/operations/cat-training.html

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

i. How will equipment training be conducted?

Empire will travel to whatever organization site the City of Tucson requests, to provide both operator and preventative maintenance training.

ii. Describe the training curriculum for the equipment operators.

Empire offers comprehensive operator training for all Caterpillar machines by our Certified Dealer Instructors (CDI). CDI's are dedicated full time to this process. CDI's are Caterpillar Certified on various applications for individual machine groups. Empire does not depend on a service technician or machine

salesman to provide this critical task. CDI's begin the ownership experience by providing customers the most thorough "in-service" training and orientation in the industry. This service is provided at delivery of ALL new Caterpillar machines.

The operator training includes complete machine walk-around inspections, discussion regarding daily maintenance/checklists and hands-on operational instruction, along with comprehensive coverage of the Operations & Maintenance Manual. Proper operator understanding is a significant advantage to help reduce the operating cost per hour of the machine life cycle.

The orientation will cover the following:

- Coverage of the Operation and Maintenance Manual
- Hands on demonstration of all wet and dry fluid and filter locations and compartments
- All safety decals and their meaning along with examples of incidents
- All machine controls, functions, features
- Live demonstration (where site allows) of machine reaction to control inputs
- Review common operator misuse or abuse habits and resulting damages (i.e. damaging parking brakes)

Additionally, our Operator Training Department permanently staffs a Training Manager with seven Certified Dealer Instructors traveling throughout Arizona, performing new machine delivery training, certified training and refresher courses along with analyzing production improvements for in-specific applications when requested.

Empire provides this for both public and private customers, for an additional charge, when requested.

iii. Describe the training curriculum for the service technicians.

Our service delivery training begins with Safety. Our instructor will cover all the safety decals and their explanation of why, as it's described in the Operation & Maintenance Manual. The following is an outline and agenda for a training session.

Safety: All decals and what they mean along with examples of past events.

Pretest: Caterpillar Safety Test must be passed by all attendees before continuing.

1. Equipment Familiarization
    a. Walk around inspection
    b. Daily service points/lubrication
    c. Cab and controls
    d. Fundamental techniques
2. Start Up/Shut Down
3. Machine Operation
4. Systems Overview
    a. Operator's station

b. Engine
c. Electrical system
d. Power train
e. Implement and steering hydraulic systems
f. Auxiliary hydraulic lines
g. Thumbs
h. Buckets
i. Couplers

5. Post Test
6. Review Maintenance Section of Operation and Maintenance Manual
    a. Lubricants and fluids
    b. Towing
    c. Review PM checklist and procedures
        - 250 Hour
        - 500 Hour
        - 1000 Hour
        - 2000 Hour

In addition to our Service delivery process, Empire offers a dedicated facility and dedicated full time staff in our Training Institute:

The Empire Training Institute (ETI) is one of five Caterpillar Certified Regional Dealer Learning Centers in North America, and one of just three Caterpillar Certified Applied Failure Analysis training facilities. ETI provides both technical and non-technical training programs for Empire employees, customers and other Caterpillar dealers via instructor-led and web-based training courses.

ETI is a dedicated 36,000 square-foot facility with eight fully equipped classrooms and over 10,000 square feet of shop space. Our experienced staff includes eight Caterpillar certified technical instructors, one soft skills instructor and one safety instructor.

Classes can be scheduled and conducted at the Empire Training Institute facility at Empire's Mesa campus or at customer sites. All training courses utilize "pre and post" testing procedures to measure learning and monitor growth, and students are presented with a certificate upon successful completion.

Training topics include, but are not limited to:

- Safety
- Diesel
- Electrical
- Engines
- Applied Failure Analysis I, II and III
- Hydraulics
- Machinery & Equipment
- MSHA for Experienced Miners
- Powertrain
- Preventative Maintenance
- Air Conditioning for EPA Certification

iv. How will you accommodate various work shifts?

Empire will provide training and accommodate any shift the City of Tucson requires.

v. What type of documentation is provided with the proposed training?

Caterpillar's Delivery Service Record provides a check list that our CDI's follow at machine delivery orientation. Signatures on the form require a City of Tucson representative to confirm the list was reviewed and completed.

vi. Is a "train the trainer" program available?

Yes

Is this training different than the regular initial training?

Yes, the training curriculum is focused on the trainer and how to communicate proper techniques and safety, and why it's important. Initial training is focused on the student.

Can training sessions be recorded for future use by the agency?

Caterpillar does not permit recording, copying or transferring any of copyrighted material, either at our Operator Training Academy or customer sites. Empire maintains Caterpillar's proprietary information and copyright policies.

vii. Is the training provided by the manufacturer, dealer or both?

Both manufacturer and dealer can provide training.

5) Ordering and Invoices

a. Describe your order process.

Caterpillar Response

Understanding that dealers have been developing and maintaining customer relationships at the local level for more than 90 years, it is Caterpillar's intent to continue to support this proven model. It will be the local Dealer that will quote, deliver, receive payment and support the products in this proposal per the terms that have been outlined.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Machine invoices will be generated after receipt of a City of Tucson purchase order at Empire.

The invoice includes:

- Name of agency
- Department receiving if supplied on purchase order

- Contact name is supplied on purchase order
- Machine Serial Number
- Machine price
- Applicable taxes
- Freight from Empire to agency
- Machine configuration (if requested)

Machine payments are due 30 days after receipt of invoice.

Terms of our invoices are available at: www.empire-cat.com/salesserviceterms

b. How do agencies work with your firm to determine appropriate equipment needs?

Caterpillar Response

Dealers have sales and application specialists who can help an agency identify the best equipment option to fit the application. Once a need has been identified, it would be in the customer's best interest to consult with the local Dealer to determine the best possible equipment solution. Should additional expertise be required, Caterpillar has expertise within the company that can also provide assistance to ensure the most favorable outcome

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Initial contact will begin with our Sales Account Manager. A dealer Account Manager has extensive knowledge and experience in machine and attachment applications can assist the City of Tucson personnel in determining the best options.

Beyond this, the Account Manager will help the City of Tucson staff build a cost/benefit analysis to help illustrate why one machine or attachment was selected over other options. If the Account Manager believes the application question needs additional expertise, he is highly proficient at navigating Empire and supplier resources and bringing their expertise to bear.

Caterpillar has several software resources to help calculate cost per hour and cost per ton of machines, such as FPC or VET, to help users select the best machines, configurations and attachments. The Account Manager will utilize these resources to help the City of Tucson analyze options.

Additionally, if the Account Manager is asked to help research the best machine for an application and he believes that our offering is not optimum, and knows a competitive product or supplier that would be, he will explain why and help coordinate contact with the supplier, if requested by the City of Tucson. We recognize that not all of our offerings are the best and most economical fit for some applications and will readily explain so when we are asked to be part of the best solution analysis.

c. Describe the equipment delivery process and your delivery commitment.

Caterpillar Response

It will be the local Dealer that will quote, deliver, receive payment for, and support the products in this proposal per the terms that have been outlined.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Most products can be sourced from Empire's extensive inventory. Our configurations are based on the optimum feature utilization and most effective cost per hour in Empire's territory. In the past, most City of Tucson units have been custom ordered because of minor configuration differences. We feel that the City of Tucson will benefit from most of the configurations we stock. This benefit is in terms of: Time of delivery, higher potential productivity, and potentially lower operating costs.

In the event we need to order a machine, the manufacturer will provide Empire a "Ready to Ship" (RTS) date. Empire will estimate additional days based on subjective experience with that manufacturer's history of accurate RTS dates. Empire will also add expected freight time. Since there are various events beyond our control such as severe weather, strikes, or U.S. Custom holds at docks, a small percentage of our given delivery times can and do extend. Empire will alert the City of Tucson immediately if we believe a committed delivery date will extend and work out a solution if the need is urgent.

d. What is your standard equipment delivery timeframes?

Caterpillar Response

Depending on Dealer inventory, delivery can be as quick as a day, but depending on demand, orders from the factory may take as long as 180 days to deliver. In most cases Dealers have been able to commit to a less than 90 day delivery timeframe. However, timelines need to be confirmed for each purchase.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

If Empire's configuration is acceptable and we can supply from inventory, we can usually deliver in less than seven calendar days. If it is urgent, we will work nights and weekends to supply a unit sooner. A significant percentage of our deliveries happen in less than three working days from receipt of firm order.

The next source for machine availability is CAT's Product Distribution Centers (PDC). PDC's have their own configurations, but most are very close to the Empire configuration. If a machine from this source has acceptable configurations to the City of Tucson's request, these machines will usually ship within 7 days and arrive at Empire within 14 days.

Additionally, Empire works with nearly every CAT dealer in the United States for trading inventory. We have an excellent reputation of helping other CAT dealers

secure units from our existing inventory and our "on order" inventory. In other words, we give more than we take. These outstanding "chits" help us secure earlier delivery several times a year and can usually arrive within 10 days.

If a unit must be factory ordered, we have no standard delivery time frames. Caterpillar claims 65%+ of their units will be "Ready to Ship" within 12-16 weeks. Allied manufacturers have too many variables to provide relevant estimates here. If Empire is awarded this contract, they will be quoted as needed.

e. How does your firm communicate order cut off dates to your customers?

Caterpillar Response

Any questions with regards to an order will be addressed by the local supporting Dealer.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

For machines and attachments, the Empire Account Manager, will provide the City of Tucson with RTS estimates upon request.

Parts – Hours of Operation

When parts are needed, Empire has been the trusted and tested source to provide them, regardless of the time of day. In a crisis or emergency, Empire has the infrastructure and people in place to provide the parts that others cannot.

- Parts are available 24 hours/7 days a week/365 days a year
- Standard business hours for Empire's Parts Stores are:

  Monday – Friday from 7:00 a.m. – 5:00 p.m.

After hours/emergency parts service is available by calling a store's main number. (Provided in section 4, subsection 2 under "Dealer Response") This service is available anytime outside standard business hours. When a call is placed, an Empire parts representative will respond, locate the parts needed, and arrange to meet at the store for pick up.

f. Identify and describe any exceptions or challenges.

Caterpillar Response

Should an urgent US military equipment order be placed at the factory it will take precedence over any other customer orders which may delay the actual delivery of any non-military orders to the end user.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Historically, Empire's most common challenges in delivery of machines have been due to severe winter weather in the mid-west and U.S. Customs holds for freight shipments at U.S. shipping ports.

With regard to parts, Caterpillar/Empire has experienced challenges when suppliers to Caterpillar of a sub component part fails on hundreds of machines in a short time. A cascade of challenges begin at that point. Usually the manufacturer's parts supply is depleted and because of the unanticipated demand, the supplier cannot ramp up production of the correct part in the normal time most Caterpillar owners have come to expect.

Throughout our 65 year history, we have faced a number of these challenges. Customers want answers. Depending on the severity, it can take a few days to diagnose the root cause before we can begin to respond to repair affected machines.

Because of Arizona's unique geography, high elevations, hard material, and high ambient temperatures, many machine failures can show up in Arizona before the rest of the world experiences them. These events have taught us to maintain a hyper awareness of developing issues. Empire is usually the lead dealer to discover the issue and help Caterpillar (and other dealers) with the solution. These events help our staff stay highly vigilant in providing early identification and developing solutions for our customers.

g. Provide details of the capabilities of your E-Commerce website including ability to display contract pricing, on-line ordering, order tracking, search options, order history, technical assistance, lists, technical data and documentation, identification of alternate green products, etc.

Caterpillar Response

E-Commerce capabilities are set up at a local level with the supporting Dealer. Most Dealers allow online parts ordering and while it will vary based on the individual Dealer, many offer customer portals that allow communications specific a customers' account. This could include machine purchase and service history, maintenance schedules, technical documentation, condition monitoring and more. Please inquire locally to determine what services are available online.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Empire's website does not provide any machine pricing for this contract. Our website does provide pricing for used machinery and used parts.

Empire Parts store is an online service that allows you to order parts from your computer. Some of the benefits are:

- Order parts anytime 24 hours/7 days a week/365 days a year
- Ability to track your part orders
- Electronic parts book for ALL Caterpillar machines
- Frequent order lists
- Shows available exchange/remanufactured options
- Track outstanding core returns for credits due
- Purchase history

Additional options available from www.empire-cat.com are:

- Equipment Management
  - On-Line Fluids Lab (Oil Sample Reports)
    - Track History for each component or machine
    - Custom graphing/charting trends
    - View Empire recommendations
- Vision Link-Vital Machine Operating Information (For machines equipped with Product Link, see below for Product Link details)
  - Asset Utilization
    - Hours
    - Fuel
    - Operation
  - Current Location (Google Maps)
  - Health Watch
    - Fault Codes
    - Fluid Analysis
    - Inspections (Requires Mobile App)
  - Geo Fencing
  - PM Maintenance Tracking
  - Production Tracking (requires additional accessories)
    - Pay Load monitoring
    - Project monitoring
    - Mass haul monitoring
  - Vision Link also allows
    - Customized alerts
      - ✓ Type of alert and who is notified
    - Exporting data
    - Customize groups, sites and projects

Vison Link is the software end of the information from the machine sensor transmitted by Caterpillar Product Link. Product Link will be supplied on all qualifying Caterpillar machines. Along with Product Link hardware, Caterpillar provides three years free subscription.

Product Link can be dealer installed for a nominal fee, on machines that Caterpillar does not supply as standard equipment. Generally, Product Link will be included on medium to large construction class machines. With the exception of backhoes, or skid steers, it will be included on most common machines the City of Tucson is likely to purchase from this contract. By early 2017, we believe every Caterpillar product will come with Product Link from the factory.

Technical Assistance and Documentation

Caterpillar Electronic Technician (ET) features:

- Displays parameter status
- Displays active diagnostics

- Clear and view logged diagnostics
- Performs diagnostic tests
- Print reports and diagnostic results
- Perform calibrations
- Displays current totals information, i.e. fuel consumption, operating hours, etc.
- Integration to help files

Technical Information, Service Information Systems (SIS)

The following items are available from SIS WEB subscription at no additional charge to the City of Tucson as part of this proposal.

- Applied Failure Analysis
- As Shipped
- Custom Service Information
- Disassembly & Assembly
- Engine News
- Engine Performance Specs
- Engine Tool Guide
- General Service Information
- Kits Information
- Microfiche1
- Operation and Maintenance Manual
- Parts Identification
- Safety
- Schematic
- Service Magazine
- Special Instruction
- Specifications
- Systems Operation
- Systems Operation - Fundamentals
- Testing and Adjusting
- Tool Guide
- Tool Operating Manual
- Torque Specifications
- Truck Engine News

Empire Parts Service and Sales Representatives (PSSR) assigned to the City of Tucson will provide training with Caterpillar technical software. Product Support Sales Representatives work closely with all departments and divisions within Empire and will assist the City of Tucson with needs related to product issues and with navigating the Caterpillar product support offerings.

h. Describe your invoicing process. Is electronic invoicing available? Is summary invoicing available? Are there other options on how an agency receives an invoice? Submit sample invoices.

Caterpillar Response

Dealers can currently provide a pro-forma invoice prior to receipt of the actual invoice. Requests for electronic invoicing should be made to the selling Dealer. Not all Dealers are able to offer electronic invoices.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

Is electronic invoicing available?

Machine invoices will be generated after receipt of City of Tucson purchase order at Empire. The invoice includes:

- Name of agency
- Department receiving if supplied on purchase order
- Contact name is supplied on purchase order
- Machine Serial Number
- Machine price
- Applicable taxes
- Freight from EMPIRE to agency
- Machine configuration (if requested)\

Machine payments are due 30 days after receipt of invoice. Terms of our invoices are available at: www.empire-cat.com/salesserviceterms

Is summary invoice available?

Yes

Are there other options on how an agency receives an invoice?

Invoices will be sent by mail, electronically or can be verbally requested for pick up.

Submit sample invoices.

Samples will be included in the attachment section of this RFP.

i. Describe how problems – such as a customer ordering a wrong product; a customer receiving a defective or wrong product; etc. – are resolved.

Caterpillar Response

In most cases working with the dealer account manager will alleviate any wrong order issues. In the event that this does not resolve the issue, the Dealer will work to resolve incorrect orders as cost effectively as possible.

Defective products are covered by manufacturer's warranty.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory

Dealer Response

As described in Caterpillar's response, in most cases working with Empire's Account Manager will alleviate wrong order issues. If Empire receives a purchase order and the quantity or configuration stated is, or seems not to be what was discussed, our Account Manager will attempt to notify both procurement and the user department, if procurement approves.

The vast majority of the time, we solve the issue at this stage. Errors of Empire's making are the responsibility of Empire. If the purchase order, or subsequent instruction in writing, is given by key personnel from the City of Tucson and Empire fails to correctly order the product, Empire will bear the expense of correcting it. If the item is in excess of what was ordered, Empire will remove it. If the item cannot economically be removed and it does not interfere with the production, safety, operator comfort or expose the City of Tucson to additional operational expense, Empire may elect to leave it on the machine at no charge to the City of Tucson.

j. Describe how your firm measures performance including identification, calculation, tracking and reporting of measurements.

Caterpillar Response (only)

Purchase orders received from a customer can be filled by an authorized dealer from inventory or by placing a new order from the factory. In either scenario, the customer will be advised about the timeline prior to delivery.

When sold, Dealers are obligated to report the sale to Caterpillar with detailed information about the sale. This creates a record in the corporate systems so that we are aware when a sale has been made to a governmental agency using this contract (National IPA).

Machine sales are only reported when the Dealer has input the transaction information into the system and the machine has been assigned to the respective industry. The sales are compiled monthly and reported back to National IPA.

k. Titles- will equipment be provided with proof of registration with the state?

Caterpillar Response (only)

Where appropriate, all titles will be provided with proof of registration with the state.

l. Will each product be delivered free of distributor advertising?

Caterpillar Response (only)

The buying agency and Dealer can determine what advertising is appropriate or not. There will never be a manufacturer requirement for the machine to carry a company decal/logo or to include distributor advertising.

6) Other

a. Describe any government rebate programs applicable.

Caterpillar Response (only)

No specific governmental rebate programs are currently available.

B. Price Proposal

1) Provide a Price Proposal. Submit the Price Proposal as a separate and clearly identified document. The Price Proposal shall minimally include the following: Offerors shall submit pricing based on the Equipment, Product Requirements and Service Requirement categories identified on the Scope of Services. Pricing should be based upon a verifiable pricing structure, such as a fixed percent discount from an index or indices or established price list, etc. Where applicable, Offerors shall provide pricing for all product and services offered. Describe how pricing is determined for a base model equipment purchase and how pricing is determined for options, accessories and services. Identify the price list being used and include an electronic copy (or website link) so that net prices can be determined.

The price proposal should include pricing for equipment, accessories and options, parts, service and any additional value-add goods or services available such as financing, rental and used equipment for purchase from the vendor. Vendors must indicate if discounts are based on manufacturer price lists or dealer price lists.

In order to allow ordering flexibility for equipment that is mounted to a chassis, Offerors should provide a separate pricing structure for each the chassis and the truck, in addition to a total pricing structure for the complete piece of equipment.

Caterpillar Response

Each Caterpillar machine model will be assigned specific discount off the manufacturer's published list price for that particular machine and or piece of equipment. This discount will be extended to all additional options from the machine / option price list that are requested by the customer and become part of the final machine configuration. The published list price for the base machine and/or any additional options included in the published machine / option price list will be considered the maximum price for the specific final machine configuration. The associated discount will be considered the minimum discount that the local supporting Dealer has agreed to honor. It is our intention to

provide the contract administrator with the City of Tucson with password protected access to our price lists housed on a secure internet platform. This ensures price lists will always be up to date.

Any additional items above and beyond those included in the Caterpillar Price Lists such as prep, extended warranties, delivery costs, customer service agreements, pre-delivery and installation, will be priced at the supporting Cat Dealer's discretion.

Financing for new and used Caterpillar products is available through a variety of financial products including Installment Sales Contracts, Finance Lease and Off Balance Sheet Operating Lease contracts. Rates and terms will be determined locally.

In an effort to provide even more customer solutions, Caterpillar will be supporting a special Used Equipment program for customers that choose to purchase products using this contract. With the exception of Cat work tools, Caterpillar will be extending a 20% discount off the original list price of used Caterpillar equipment that is currently in the Dealer's rental fleet that the Dealer agrees to sell. At their discretion, Dealers will have the ability to extend this program to customers for the purchase of work tools. Please note that this used program is subject to availability.

Parts, service work and rental is also available through this contract. There is no national price list for these options and as such prices will be determined locally based on volume of purchases and prevailing rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

CONFIDENTIAL – Request confidential treatment –

SEE CONFIDENTIAL CITY OF TUCSON RESPONSE: CATERPILLAR AND EMPIRE MACHINERY

2) Based on your distribution network, explain how freight is calculated.

Caterpillar Response

The freight and delivery costs vary by product and will be quoted separately. Our products are manufactured in locations around the globe and vary considerably in size and weight so costs to transport our products to the selling dealer will vary widely.

If the customer chooses to have the Dealer deliver those machines to the purchaser's location the cost would be calculated based on the distance from the Dealer's place of business. The Dealer will quote actual shipping and prep costs for each machine quoted through this contract.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Freight is calculated in three different manners, depending on model, for Caterpillar:

- Caterpillar Included in Price: On most small products Caterpillar defines as BCP, such as Skid Steers, Backhoes, Telehandlers, and Mini Excavators, freight is included in the list price and is not a line item on the price list. Caterpillar dealers have zero control on this process. Caterpillar models handled in this manner are referenced as "FOB Dealer" in the Caterpillar price pages.

- Caterpillar Managed Freight: On some regional type models such as medium Excavators, Caterpillar will add the freight to the invoice. Caterpillar dealers have zero control on this process. The cost to Empire, for this particular model, is noted specifically in the Caterpillar price pages.

- Empire Quoted: Empire is responsible for the freight from either the factory or the port. Empire utilizes an RFP to quote pricing in advance for each of these models. Five to seven national freight companies compete against each other using this bid system. Empire will use this pricing methodology to determine the freight on each individual model.

- Allied Products: Allied freight varies from manufacturer to manufacturer. Some provide managed freight; some quote dealers "FOB" their factory. Empire will provide a written quote from the vendor at time of quotation to recapture these freight costs.

  Empire does not "mark-up" or profit from freight. This is a "pass through" expense to the City of Tucson.

3) The discount structure provided by the supplier is intended to remain constant throughout the term of the Contact. Discuss how often price lists are updated and provide a listing of price list changes that have taken place over the last 3 years. Discuss any known future price list changes or industry changes that will effect pricing over the next 5 years.

Caterpillar Response

CONFIDENTIAL – Request confidential treatment –

SEE CATERPILLAR/CITY OF TUCSON CONFIDENTIAL DOCUMENT

Dealer Response

CONFIDENTIAL – Request confidential treatment –

SEE CATERPILLAR/CITY OF TUCSON CONFIDENTIAL DOCUMENT

4) State if pricing is most favorable offered to government agencies. Describe how your firm will ensure this contract will continually offer the best pricing available to Participating Public Agencies.

Caterpillar Response

Dealers are independent businesses and Caterpillar does not dictate pricing. It is the intent that with the "Maximum Price / Minimum Discount" model, that all Dealers will have the flexibility to extend the lowest competitive price to the agencies who choose to use the contract. Manufacturer's incentives may be periodically provided and may be regionally based.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Above and beyond the discounts stated in the price proposal/discounts section of this RFP, Caterpillar or Allied manufacturers may offer additional discounts beyond the minimum table. These incremental discounts may be short term (seasonal) programs or multiple unit discounts for a single transaction.

Incremental or additional discounts come from cycles of increasing or decreasing demand from the marketplace. If a manufacturer cannot produce the quantities to supply the opportunity, their incremental discounts are usually zero. Conversely, if they are targeting a new product, have over produced, or feel they are losing crucial market share in a region, they may offer dealers a temporary or seasonal additional discount with the intent it will incentivize dealers to stock more, or end users to pull purchases forward.

In the event additional or incremental discounts are available, Empire will pass these discounts on to the City of Tucson when "current" pricing quotes are requested. These quotes will show the contract minimum discount along with any additional or incremental discount and their expiration dates. These incremental discounts are usually labeled as "incentives" and they can have a very short life. Empire will explain to the City of Tucson their origin, amount and termination date.

Occasionally, Empire can negotiate termination extensions when the City of Tucson wants to take advantage of an incremental discount, but requires additional time to secure funding and approval. Empire is compelled to add: "Occasionally" means we are successful at securing extensions fewer times than not.

5) Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

Caterpillar Response (only)

No additional volume rebate program is included in this proposal, however customers and their local Dealer may enter into agreement for additional discounts and or other value added provisions within the spirit of the "Maximum Price / Minimum Discount" model for volume purchases that are in line and conform to all the terms and conditions covered by the contract.

6) Provide information on any ordering methods – such as electronic ordering or payment via pCard or EFT – or other criteria which entitle the using agency to additional discounts.

Caterpillar Response (only)

None available at this time.

7) As stated in the Instructions to Offerors, 7. Discounts, the price(s) herein can be discounted by _0_ %, if payment is made within 0 days. These payment terms shall apply to all purchases and to all payment methods.

8) Will payment be accepted via commercial credit card?__Yes _X*_No

a. If yes, can commercial payment(s) be made online? __Yes ___No
b. Will a third party be processing the commercial credit card payment(s)? __Yes __No
c. If yes, indicate the flat fee per transaction $____(as allowable, per Section 5.2.E of Visa Operating Regulations).
d. If "no" to above, will consideration be given to accept the card? _X*_Yes __No

Caterpillar Response (only)

*Commercial Credit Card acceptance (online or in person) is in the Dealer's discretion. Not all dealers will accept payment by credit card. Limits and conditions may be imposed by the local Dealer.

Dealers, either independently or in conjunction with Cat Financial may offer lines of credit to governmental purchasers.

9) Does your firm have a City of Tucson Business License? __X__Yes _X__ No

a. If yes, please provide a copy of your City of Tucson Business license.

Caterpillar Response

Caterpillar is proud to have a large presence in the City of Tucson as we recently relocated a major division with 600+ employees to the city. However, that office conducts no retail business and as such does not hold a business license. Please refer to supplemental documents which includes email confirmation from City of Tucson taxing authorities.

The local Dealer, Empire Machinery, has a City of Tucson Business license.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

Dealer Response

A copy of the City of Tucson Business License issued to Empire Southwest LLC (dba Empire Machinery) is included in the attachments section of this RFP.

C. Qualifications & Experience

1) Provide a brief history and description of your company. Describe your market position in the local government, educational and medical market spaces.

Caterpillar Response (only)

For more than 90 years, Caterpillar has been making sustainable progress possible and driving positive change on every continent. Customers turn to Caterpillar to help them develop infrastructure, energy and natural resource assets. With 2015 sales and revenues of $47 billion, Caterpillar is the world's leading manufacturer of construction and

mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. The company principally operates through its three product segments - Construction Industries, Resource Industries and Energy & Transportation - and also provides financing and related services through its Financial Products segment. The Caterpillar Dealer organization has been a key component of Caterpillar's success. Caterpillar subscribes to the philosophy we need our dealers, and our customers to be successful, in order for us to continue to grow profitably. It's a symbiotic relationship where all benefit when all grow together. This success is evident in the fact that many of our dealer s have been owned by the same family for multiple generations.

Caterpillar is a leader in the heavy equipment business. This leadership also extends to sales to governmental agencies.

One of the largest factors for Caterpillar's continued success is that our customers have realized that they get the best overall value when they purchase Caterpillar. When considering the total cost of ownership, it's important to include the following factors. For any specific product, the Dealer would be able to provide detailed information tailored to the local market.

- Operating costs (include fuel burn, a key trait for which Caterpillar is broadly considered most efficient)
- Maintenance costs
- Repair costs
- Safety design and performance
- Productivity
- Ease of operation
- Reliability
- Resale value

2) Describe your dealer network and their role in providing products and services under this contract.

Caterpillar Response (only)

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance, payment receipt and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective territories.

Specific information about dealers is located on
http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealer network currently employs over 46,000 total employees. 5,500 of these employees are dedicated to machine sales. Many dealers have enough opportunity in the governmental market to employ sales people whose careers are dedicated to and specialized in the governmental industry. Approximately 70% of dealer employees are dedicated to product support. The Cat dealer network

brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

3) Provide a listing of key personnel who will be assigned to the City's contract. Include their title within your organization and the description of the type of work they may perform. Please identify an executive corporate sponsor who will be responsible for the overall management of the awarded Master Agreement.

Caterpillar Response

Nationally, the contract will be managed by:

Patty Redpath
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory for specific contacts for the City of Tucson.

Dealer Response

For all support related to this contract, please contact:

Clinton Swapp
Sales Account Manager
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8213
Cell: 520-240-8213
Email: Clinton.Swapp@empire-cat.com

Ty Robertson
Product Support Sales Representative
7600 S. Nogales Hwy.
Tucson, AZ 85756
Office: 520-746-8226
Cell: 520-269-1171
Email: Ty.Robertson@empire-cat.com

4) Summarize your experience in providing equipment, products and services similar to that outlined in the Scope of Work. Provide a minimum of three references for which you have provided similar products and services. References from other public agencies, particularly municipal governments, are preferred. Please include company name, address, phone, email, and contact person.

Caterpillar Response

For the last 90 years, Caterpillar's principal line of business has been the manufacture, sales and support of construction equipment. Throughout our history we have worked in close consort with our authorized dealers and that successful model has not substantially changed since its inception.

We have many satisfied customers in public agencies and refer you to Empire Machinery's response for three local agencies who are pleased with their support.

It is also important to reference the working partnership between Caterpillar, Empire Machinery, City of Tucson and National IPA for the past five years. The performance under contract #120377 is evidence of a strong and successful relationship. It is our desire to maintain this high level of cooperation as we move forward under this new RFP. We are deeply appreciative of the confidence placed in our machines and service and we value your business. We will do everything possible to maintain your trust as we look to forward to mutually beneficial contract going forward.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory for local customer references.

Dealer Response

References:

City of Phoenix
Contact: Bonnie Shockley, Equipment Control Specialist
2441 S. 22nd Ave., Phoenix, AZ 85009
602-534-2129
bonnie.shockley@phoenix.gov

Maricopa County
Contact: Gidget Vigil, Equipment Manager
3325 W Durango St. Phoenix, AZ 85009
602-506-4674
gidgetvigil@mail.maricopa.gov

Cochise County
Contact: Ruben Miranda, Internal Services Administrator
1151 W Hereford Road. Bisbee, AZ 85603
520-432-8391
rmiranda@cochise.az.gov

5) Please submit any additional information that you feel is applicable to your qualifications and experience.

Caterpillar Response (Only)

- CONFIDENTIAL – Request confidential treatment –

SEE CATERPILLAR/CITY OF TUCSON CONFIDENTIAL DOCUMENT

6) Provide the qualifications of technicians that will be servicing equipment throughout the nation.

Caterpillar Response

All Dealers employ highly trained and experienced technicians that have completed numerous factory training programs. Each dealer can expound on their own specific requirements but overall our technician capability is excellent.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer service territory.

Dealer Response

Empire Machinery's response is for Empire's territory only. All CAT dealers employ service personnel, with all levels of experience, but will vary from dealer to dealer.

Empire employs over 540 trained technicians throughout Empire's territory. These technicians are highly trained and the majority have job site experience in all industries including, but not limited to:

- Landfill
- Governmental
- Heavy Construction
- Highway / Road Construction
- Paving
- Mining
- Forestry
- Agriculture
- Power Generation
- Quarries & Aggregates
- Residential Construction
- Recycling

Additional Services Information

Empire Machinery provides the largest investment of any competitor in the following areas.

Service: Empire provides the largest number of both shop and field technicians in the State of Arizona. From the best data we can gather, we have more staff in each of the service areas than all of our competitive vendors combined.

Empire Service Capacity Statistics (statewide):

- Field Service Technicians: 190+
- Service Trucks: 300+
- In Shop Technicians: 330+
- Technical Communicators: 13
- Service Managers: 27+ (all former shop or field technicians)
- 90 Shop Leadspersons
- 40+ Welders
- Average length of time in Service for all technicians: 10.5 years
- Many technicians in EMPIRE's stores have over 25 years' experience for other technicians to draw from

Years of experience in service staff are important to the customer. One of the highest costs of Ownership and Operating (O&O) costs is downtime. The faster a vendor can dispatch and arrive at a down machine (based on truck fleet capacity), trouble shoot the problem (based on experience, access to information or additional expertise), select and confer repair options with the customer, repair the machine (based on truck tool box capacity), only then can the absolute lowest expense be achieved, returning the machine to production.

It is difficult to quantify savings from assessing truck capacity and capability when trying to compare one vendor to another. The parts and labor expense in the cost of a work order are easier to compare and tend to be what receives focus rather than the difficult task to determine downtime expense or savings. The primary mission, and Empire's extensive investment in our Parts and Service Departments, is focused on reducing downtime expenses while being as efficient as possible.

Value Added Support Services

The ability of the local dealer to provide value added support services is an important consideration in the purchase of heavy equipment. Empire provides many of these value added services to reduce the operating cost and risk of machine ownership.

The following is a summary of Empire's value added services:

- Tractor Machining – With tremendous capacity for component restoration and repair, reuse and rebuild of machine components (ISO9000/2001 Certified)
- Empire Hydraulic Service – Operating multiple shifts and capable of full service for all hydraulic brands (ISO/9000/2001 Certified)
- Empire Transport – Heavy haul with a fleet of 60 trucks and capable of hauling loads up to 180,000 lbs. in the event of any emergency
- Empire Training Institute – Provides both technical and non-technical training programs for EMPIRE employees, customers and other Caterpillar dealers via classroom and web-based training courses
- Technology Products and Services – Sitech Southwest, a wholly owned subsidiary of Jeff Whiteman (CEO of EMPIRE), offering a full range of technology solutions and technology support.
- Wear Analysis – Empire's own laboratory, processing 120,000 samples annually (ISO9001; 2001 Certified). The wear analysis allows a customer to repair a component or tractor before failure.
- In-Shop Services – With multiple shifts, over 400 factory certified technicians and EMPIRE's capability as the largest powertrain rebuild dealer in North America.
- Field Service Capability – 24 hours/7 days availability of over 300 field service trucks, along with EMPIRE's most experienced technicians (12 years average experience)
- Empire Power Systems – Provides turnkey solutions, service and temporary power for data centers, life support systems, telecommunication and construction. Empire also offers reliable, cutting edge solar solutions to commercial customers.

7) Describe your quality control program including but not limited to: what is your quality control procedures, who performs the quality control inspection? What are the qualifications of the inspectors? What items are inspected / tested? Etc.

Caterpillar Response (only)

Quality levels are at the highest in company history. In 2013, Caterpillar implemented Lean methodology. Lean is built on a strong foundation of 6 Sigma and Caterpillar Production Systems (CPS). Lean is how Caterpillar eliminates waste and drives

efficiencies. By standing up quality gates throughout the production processes, Caterpillar can stop defects – first by catching them at the quality gates, and then by eliminating them. Lean has been deployed at more than 94 production facilities throughout the enterprise.

In the production facilities, qualified technicians perform a battery of tests to ensure that the products leaving Caterpillar plants are operating to the outlined specifications before delivery to the customer. These tests cover the electronic system, hydraulic systems, and powertrain systems on every machine we build. In addition to static testing procedures, trained operators perform a series of road tests and simulated operational maneuvers in dedicated locations at the plant prior to shipment. Should a machine exhibit any functional issues or fail a quality control benchmark at any point in the manufacturing process, the production line will either be shut down to remedy the issue or the machine will be removed completely from the production line. The unit will then be assigned a specific troubleshooting cell to perform the necessary corrections or repairs at which point it will be re-subjected to the battery of tests until such time it meets Caterpillar's quality control standards.

Upon arrival at a dealership a detailed pre-delivery inspection will be performed. Deviations from expected condition or operational performance will be noted, reported and corrected before delivery. It is also recommended for the customer to inspect the machine prior to first use.

PROPOSAL EVALUATION REQUIREMENTS

A. Method of Approach

1) National Program

1) Provide a response to the national program by including a detailed response to Attachment A, Exhibit A, National IPA Response for National Cooperative Contract. Provide any proposed exceptions to Attachment A, Exhibit B, National IPA Administration Agreement for the City's consideration.

Caterpillar Response

Caterpillar will be providing a response to RFP #161534 on behalf of Caterpillar and Participating Caterpillar's Dealer's in an effort to support the terms included herein on a national scale. Additionally, Caterpillar has asked the local authorized dealer, Empire Machinery, to provide supplemental responses to applicable questions specific to the manner in which they will be specifically supporting the contract for the City of Tucson. From a national standpoint, these supplemental responses should only be considered examples of the manner in which business may be conducted. The contract may be supported differently in jurisdictions other than those serviced by Empire Machinery.

Please also see our attached proposed exceptions.

2) Distribution Network

a. Describe how your firm proposes to distribute the equipment, accessories, parts, repair and services nationwide. Describe any parts the distribution network will have "on-hand" and those that must be ordered.

Caterpillar Response

-Confidential-

SEE CATERPILLAR/CITY OF TUCSON CONFIDENTIAL DOCUMENT

b. Identify all other companies/distributors/dealers that will be involved in processing, handling or shipping the products/services to Participating Public Agencies.

Caterpillar Response

Caterpillar and Cat Dealers are the two principle parties involved in providing products/services to public agencies. In most cases, the Cat dealers have their own transport trucks and trailers capable of handling or shipping the products/services from the Caterpillar facilities to the Dealership location(s), as well as to the Participating Public Agencies. Both Caterpillar and the dealers may contract transport out to meet time deadlines, and/or to reduce cost for our customers.

The transport companies used by Caterpillar or Cat dealers must meet the strict requirements of our transportation plan. Additional details can be provided upon request.

c. Provide the number, size and location of your firm's manufacturing facilities, distribution facilities, warehouses, service facilities and dealer networks as applicable. State the estimated dollar value of your inventory. Include a map showing heavy equipment distribution network coverage nationwide.

Caterpillar Response

Caterpillar operates parts distribution centers in the following locations: Morton, Illinois; Arvin, California; Denver, Colorado; Miami, Florida; Atlanta, Georgia; St. Paul, Minnesota; Clayton, Ohio; York, Pennsylvania; Waco, Texas; Spokane, Washington; Melbourne, Australia; Queensland, Australia; Grimbergen, Belgium; Piracicaba, Brazil; Shanghai, China; San Luis Potosi, Mexico; Singapore, Republic of Singapore; Moscow, Russia; Johannesburg, South Africa, and Dubai, United Arab Emirates. We also own or lease other facilities that support our distribution activities.

Our current principal manufacturing facilities include those used by the following segments in the following locations:

CONSTRUCTION INDUSTRIES	
U.S. Facilities	Facilities Outside the U.S.
Arkansas: North Little Rock **Illinois:** Aurora, Decatur, East Peoria **North Carolina:** Clayton, Sanford **Texas:** Victoria **Georgia:** Athens	**Belgium:** Gosselies **Brazil:** Campo Largo, Piracicaba **China:** Suzhou, Wujiang Xuzhou, Qingzhou **France:** Grenoble, Echirolles **Hungary:** Godollo **India:** Thiruvallur **Indonesia:** Jakarta **Japan:** Akashi, Sagamihara **Poland:** Janow, Sosnowiec **Russia:** Tosno, Novosibirsk **United Kingdom:** Desford, Stockton **Thailand:** Rayong
RESOURCE INDUSTRIES	
Illinois: Aurora, Decatur, East Peoria, Joliet **North Carolina:** Winston-Salem **Pennsylvania:** Houston **South Carolina:** Sumter **Tennessee:** Dyersburg **Texas:** Dennison **Wisconsin:** South Milwaukee	**Australia:** Beresfield, Burnie **China:** Langfang, Tongzhou, Wuxi, Zhengzhou **Czech Republic:** Ostrava **France:** Arras **Germany:** Dortmund, Lunen **India:** Hosur, Thiruvallur **Indonesia:** Batam **Italy:** Jesi **Japan:** Sagamihara **Mexico:** Acuña, Monterrey, Reynosa, Torreon **Russia:** Tosno **Thailand:** Rayong **United Kingdom:** Peterlee
ENERGY & TRANSPORTATION	
Alabama: Albertville, Montgomery **California:** San Diego **Georgia:** Griffin **Illinois:** LaGrange, Mossville, Mapleton, Pontiac **Indiana:** Lafayette, Muncie **Kentucky:** Decoursey, Louisville, Mayfield **South Carolina:** Newberry **Texas:** Channelview, DeSoto, Mabank, San Antonio, Schertz, Seguin, Sherman	**Australia:** Revesby **Belgium:** Gosselies **Brazil:** Curitiba, Hortolandia, Piracicaba, Sete Lagoas **China:** Tianjin, Wuxi **Czech Republic:** Zatec **Germany:** Kiel, Mannheim, Rostock **India:** Hosur, Aurangabad **Mexico:** San Luis Potosi, Tijuana **Republic of Singapore:** Singapore **Sweden:** Ockero Islands **Switzerland:** Riazzino **United Kingdom:** Larne, Monkstown, Peterborough, Sandiacre, Shoreham, South Queensferry, Springvale, Stafford, Wimborne

Caterpillar inventory is stated at the lower of cost or market. Cost is principally determined using the last-in, first-out (LIFO) method. The value of inventory totaled $9.7B at December 31, 2015.

Information about the Cat dealer network is set forth in subsection 2.d. below.

d. Describe your dealer network and their role in providing products, services, etc. under this contract.

Caterpillar Response

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective service territories. Specific information about dealers is located on http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealers currently employ more than 46,000 total employees. 5,500 of these employees are dedicated to machine sales and many dealers have sales persons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to product support. The dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

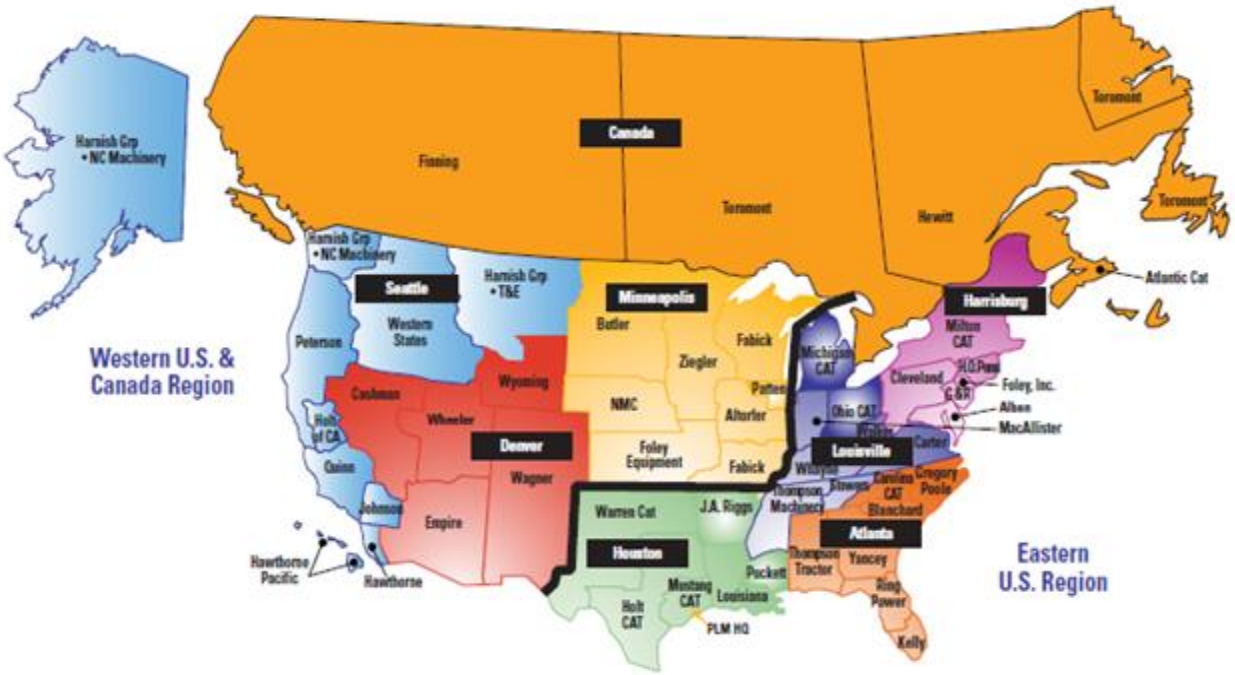

Image 1: North American Dealer Network

3) Product

a. Provide a detailed written response illustrating how the equipment, accessories, parts, supplies and related services offered will meet the requirements of this solicitation. Offerors shall identify and describe their heavy equipment categories. For each proposed category, describe in detail and provide at a minimum the following types of information:

1. Identification and description of equipment categories offered.

Caterpillar Response

Caterpillar is the world's leading manufacturing of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. Caterpillar also provides financing and related services through its Financial Products division.

All products sold by Caterpillar through its dealer network in the United States are included in this proposal. The product lines most relevant to this solicitation included but not limited to:

Construction & Paving Equipment
Articulated Dump Trucks
Asphalt Cold Planers
Asphalt Rotary Mixer
Dozers / Tracked
Dozers / Wheeled
Excavators / Tracked
Excavators / Wheeled
Loaders / Tracked
Loaders / Wheeled
Motor Graders
Paver / Tracked
Paver / Wheeled
Asphalt Compactors - Vibratory
Asphalt Compactors – Pneumatic
Scrapers
Skid Steer Loaders / Wheeled
Compact Track Loaders
Multi-Terrain Loaders
Skip Loaders
Soil Compactors
Telehandlers

Landfill Equipment
Landfill Dozers
Landfill Compactors
Landfill Scrapers

Work Tools (requires host machine)
Buckets
Augers
Thumbs
Hammers
Trenchers
Couplers

Generators & Power Systems
Gas and Diesel Engines
20kW to 16 mW Single Engines
Prime Power
Cogeneration

Please refer to supplemental proposal, Empire Machinery Products and Services subtitled “Allied Products” for additional non-Cat manufactured/ branded lines of equipment offered by Cat dealers for purchase under this contract.

2. Identification and description of sub categories.

Caterpillar Response

Each of the equipment categories above consists of several models of machines that vary by size, horsepower and productivity.

With more than 239 models of Construction and Governmental products offered (not including mining, power generation, and engines), and multiple application-specific configurations, Caterpillar will be able to support virtually any governmental equipment need. Caterpillar is the only manufacturer to offer this many distinct models of machines, configurations and attachments.

A complete current listing with specifications and details is maintained at:

http://www.cat.com/en_US/products/new/equipment.html

Recycling and Waste
Caterpillar is the only manufacturer to offer a full line of machines specifically designed to handle landfill and waste applications.

Specific information can be found on our website at:

http://www.cat.com/en_US/products/new/by-industry/waste.html

Construction Equipment
As the recognized global leader in construction equipment, Caterpillar has repeatedly demonstrated its expertise in helping governments and contractors worldwide continue to develop and maintain infrastructure. Caterpillar has the largest breadth of products to support these applications. Caterpillar continues to lead the industry in investing hundreds of millions of dollars each year in research and development.

This ensures that what we sell is high performing, reliable, long lived products resulting in the best overall best value.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/construction.html

Technology & Solutions

Information and data are quickly becoming vital in heavy machine operation and maintenance. Caterpillar is at the forefront with the variety of solutions available to customers. Whether the goal is to track hours and location or to dive deep into operation and maintenance practices, Caterpillar has a technology solution to meet that need.

For more detailed information please visit:

http://www.cat.com/en_US/support/operations/technology.html

Paving

Road building and maintenance are core competencies of the paving division of Caterpillar. We build and support a wide-ranging product line that includes everything from compactors and pavers, to cold planers to road reclaimers.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/by-industry/paving.html

Work Tools

In addition to machines, Caterpillar will also be offering its full line of work tools to add even more versatility to the host of Caterpillar machines. This will provide an even greater selection of solutions. Caterpillar currently is a leader in both sales and models offered with more than 1800 different work tool options currently available.

For more detailed information please visit:

http://www.cat.com/en_US/products/new/attachments.html

Other/Miscellaneous/Allied

There are other product lines that don't fall neatly into the categories above. Should the City of Tucson have a need for them, they are included as part of this contract and can be offered for sale by Dealers.

Additionally, Dealers often carry lines of complementary products not manufactured or marketed by Caterpillar that can be sold under this contract as allied machines. With this in mind, most of the products listed in this RFP can be provided either through Dealers as a branded Caterpillar product, or as allied equipment.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

Allied products include but are not limited to:

Construction and Mining	On Road Industrial
Allmand (Light Towers) Broce Brooms JLG (Man lifts) Mega (Water tanks, Towers and Trailers) Genie (Man lifts and Telehandlers) Progressive Solar (Solar Power Light Plants) Multiquip Power Sullair Air Compressors Rockland (Buckets and Dozer Blades) Paladin (Couplers and Attachments) CE Attachments (Attachments) Dymax (Attachments) Weiler Paving Products (Pavers, Tack Truck & Trailers, Wideners) Wain-Roy	Fuso Trucks Mac Trailers Maintainer (Service Bodies) Murray Trailers (Heavy Haul) Trail King (Small to Heavy Haul) UTB (Service Bodies) Fleming Trailers
Agriculture	**Technology**
Challenger Tractors Massey Ferguson Tractors Rome (Construction Grade Discs and Plows) Woods (Scrapers and Mowers) Gearmore (Attachments) Reynolds (Scrapers) TG Schmeiser (Box blades, Land Levelers) Wilcox Tillage (Rippers, discs, subsoilers, crumblers)	Spectra Precision (Survey Instruments) Trimble (2D and 3D Grading Systems) Accugrade (Caterpillar Grade Control) Seco (Surveying and Site Prep) Laserline (Laser Controls) Apache (Grade Control, GPS and Lasers) Level Best (Laser Grading Box)

Although these additional products and or services will be solely provided and supported by Empire Machinery for the customers within the territory Empire Machinery serves, this list of Allied products is an example for similar products and or services that can be obtained from other Dealers across the country.

3. Identify accessories, parts, services, etc. that are available through the manufacturer.

Caterpillar Response

All Caterpillar products and services will be provided through Caterpillar's North American Dealer Network.

In North America alone, Cat dealers inventory over $1.0 Billion in protective parts stock to minimize machine downtime for its customers. Caterpillar currently has an industry-leading 24-hour parts fill rate of 99%.

Caterpillar doesn't focus on just the current model parts; we provide the most comprehensive line of legacy and remanufactured parts in the industry.

Most Caterpillar machines are designed for multiple lives, meaning once the first hours of useable life has been met, it can be rebuilt once or in many cases two or three times again. Because of the long life cycles of the Caterpillar product, we make sure we have legacy parts available to ensure that customers get the full life out of their machines at the lowest cost per hour.

In addition to providing legacy parts, Caterpillar boasts the largest availability of remanufactured parts in the Industry. These parts are brought back to new standards and include the same warranty as new parts all while only costing a fraction when compared to new.

Caterpillar also offers a full line of work tools and attachments to add even more versatility to the host machine. This will provide an even greater selection of solutions for the customer. Caterpillar currently holds the market leader position in both sales and models offered with more than 1,800 different work tool options currently available.

4. Identify accessories, parts, services, etc. that are available through the authorized dealer.

Caterpillar Response

In addition to the new machines and power systems mentioned above, Dealers also offer a complete line of OEM repair parts, work tools and attachments.

Services such as repairs, rebuilds, maintenance, financing, extended protection plans, training, consulting, remote monitoring and more are offered by Dealers.

Additional services and other lines of equipment may be available depending on local dealer capabilities.

The purchasing of used equipment and renting equipment is included under this contract and sale/rental prices will follow the same maximum price minimum discount method as purchasing new equipment off this contract. This ensures when purchasing/renting these types of machines they are competitively priced based on like machines in the market place.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

5. Provide descriptions, catalog(s) or website links for accessories, parts and supplies offered.

Caterpillar Response

To see Caterpillar's full line of heavy equipment, work tools, and services please visit: www.cat.com

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

6. Do you offer color choices for each product listed?

Caterpillar Response

Caterpillar machines are painted Caterpillar yellow, which is a copyrighted color and is proprietary. Caterpillar will meet customers' unique paint color requirements for an additional fee which must be quoted and agreed to prior to the start of build.

b. Describe descriptions, catalog(s) or website links for accessories, parts and supplies offered, including:

1. types of warranties available (by category or equipment)

Caterpillar Response

Caterpillar is proud to offer robust warranty for its products.

Caterpillar machines come with standard warranties against defects in material and workmanship. Warranty inclusions and exclusions will vary by product and details can be provided at any point in the purchase process.

The majority of new machines included under this solicitation will qualify for 12 months/unlimited hours warranty. Some products, notably compact track loaders and mini excavators, qualify for 12 months/1500 hours warranty.

Additional extended equipment protection plans can be customized to meet each customer's specific need. The following is an example of some of the options that would be available through the local supporting Cat dealer.

140M3 Motor Grader	Months	Hours
Premier	24 to 84	5000 to 7500
Powertrain & Hydraulics	24 to 84	5000 to 10000
Powertrain	24 to 84	5000 to 10000

Please note that all manufacturers' warranties and/or extended coverage plans do not cover the same components and/or systems that Caterpillar's protection plans cover. Repairs and or replacement of components not covered by other manufacturers can present a significant cost to the overall ownership of a machine. The breadth of coverage provided through Caterpillar's coverage plans re-emphasizes the confidence Caterpillar has in its products as well ensures the lowest total cost solution for our customers.

Also, please reference the two examples of typical warranty statements which are attached to this proposal.

For expanded explanation of the benefits of Caterpillars warranty, please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

2. description of your warranty claims procedures.

Caterpillar Response

Caterpillar warranty is administered by the Dealers. Dealers are best positioned to see that the customer receives outstanding service for their warranty repairs.

Warranted claims will be presented by the customer to the supporting Dealer and will be administered at the local level. The supporting Dealer will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customer.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

3. description of your policy addressing warranty issues related to:

    i. Major Component Failures
    ii. Engineering Deficiencies
    iii. Describe your firm's standard response time to address warranty failure issues.

Caterpillar Response

Caterpillar is proud to offer robust warranty for its products.

All defects in materials and workmanship are fully covered under the warranty period. All claims will be investigated by the supporting Dealer and determined whether they fall under the warranty policy or under the category of normal repair and maintenance.

Of course if there is a major component failure significantly earlier than its predicted life, the dealer will investigate to determine the likely cause of failure. Should the cause be determined to be design or manufacturing related, the customer, Dealer, and a Caterpillar representative will work together to find a solution that is agreeable to all parties.

There is not a nationwide warranty response time guarantee because machines, applications, repair requirements and availability needs will vary by geography and customer. In every situation, the Dealer will work to resolve warranty issues as quickly as possible and/or provide an interim working solution.

For additional information regarding the description of policy addressing warranty issues related to; Major Component Failures, Engineering Deficiencies, and Empire Machinery's standard response time to address

warranty failure issues, please refer to the supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

c. Is there a dedicated support representative that the City should contact? If yes, provide their name and complete contact information.

Caterpillar Response

For all support related to this contract, the account manager at Caterpillar is:

Patty Redpath
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

For specific product support at Empire Machinery, please refer to the supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

d. Provide information which details the costs, types, and extents of available extended warranty coverage for heavy equipment.

Caterpillar Response

Additional extended protection plans are available for purchase. Three major types of protection are generally offered: Powertrain, Powertrain + Hydraulics and Premier. Customization of Extended Protection Plans is also an option available through our dealer network.

The costs for these extended plans vary by product, type of coverage, machine application and length of coverage. Because Dealers are independently owned businesses with widely varying geographic service territories, the actual costs associated with supporting such warranties will vary and cannot be quoted on a national scale by Caterpillar as fixed amounts.

Such factors include but are not limited to the Dealer's shop labor rates, transportation costs both for the machine as well as the technician and many others. It is recommended that warranty and extended protection plan considerations be clearly stated and agreed to prior to any transaction as a result of this contract.

For expanded explanation of the benefits of Caterpillars warranty please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer service territory.

e. Describe how your firm is anticipating and ensuring compliance with the Environmental Protection Agency (EPA) emission changes.

Caterpillar Response

Caterpillar fully supports the efforts of the Environmental Protection Agency and we are proud to offer the largest number of machines compared to competitors, meeting Tier 4 final emissions requirements. All new machines are fully compliant under current emissions regulations which do vary by horsepower and intended use.

Managing a broad global product line is challenging so to ensure we are properly prepared for any additional regulations, Caterpillar has a dedicated team of experts that works very closely with EPA officials.

In 2016, Caterpillar was once again named to the prestigious Dow Jones Sustainability Index (DJSI) List, marking the 17th time we have been included in the DJSI. Caterpillar leads its global peers in the Capital Goods sector in the areas of innovation management, risk and crisis management, labor practices and human rights, as well as corporate citizenship and philanthropy.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

f. Submit all information that will aid the City in evaluating your proposal

Caterpillar Response

To view Caterpillar's achievements in sustainability, please view our most recent Sustainability Report at:

http://www.caterpillar.com/en/company/sustainability.html

Also, please note the industry awards Caterpillar has received in the last few years.

Roads and Bridges is a highly regarded industry trade publication devoted to equipment owning and operating customers. Each year Roads and Bridges publishes a list of equipment models and categories that have been identified by these customers as being the best in class for their respective categories and size classes.

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Year	Category	Level	Model
2015	Asphalt Pavers	Gold	CAT AP1055E
2015	Asphalt Pavers (Small)	Gold	CAT AP555E
2015	Asphalt Screeds	Gold	CAT AS3301C
2015	Compaction (Asphalt)	Gold	CAT CB54B
2015	Compaction (Soil)	Gold	CAT CS56B
2015	Concrete Breakers	Gold	CAT H120Es
2015	Dozers	Gold	CAT D6T
2015	Excavators	Gold	CAT 323F
2015	Loader Backhoes	Gold	CAT 420F
2015	Mini Excavators	Gold	CAT 308E2
2015	Motor Graders	Gold	140M2
2015	Recyclers/Reclaiming Machines/Soil Stabilizers	Gold	CAT RM500
2015	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2015	Specialty Excavators	Gold	CAT 335F
2015	Telehandlers	Gold	CAT TH514C
2015	Trucks (Off-Highway)	Gold	CAT 772G
2015	Wheel Loaders	Gold	CAT 938K
2015	Asphalt Milling Machines	Silver	CAT PM200
2015	Skid-Steer Loaders	Silver	CAT 259D
2015	GPS/Laser-Guided Equipment	Bronze	Cat Grade Control
2014	Asphalt Pavers	Gold	CAT AP1055E
2014	Asphalt Pavers (Small)	Gold	CAT AP555E
2014	Asphalt Screeds	Gold	CAT AS3301C
2014	Compaction (Asphalt)	Gold	CAT CB54B
2014	Compaction (Soil)	Gold	CAT CS56B
2014	Concrete Breakers	Gold	CAT H120Es
2014	Dozers	Gold	CAT D6K2
2014	Excavators	Gold	CAT 336E H
2014	Loader Backhoes	Gold	CAT 420F
2014	Mini Excavators	Gold	CAT 308E2
2014	Motor Graders	Gold	14M2
2014	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2014	Specialty Excavators	Gold	CAT 328D LCR
2014	Telehandlers	Gold	CAT TH514C
2014	Trucks (Off-Highway)	Gold	CAT 773G
2014	Wheel Loaders	Gold	CAT 938K

2014	Recyclers/Reclaiming Machines/Soil Stabilizers	Silver	CAT RM500
2014	Skid-Steer Loaders	Silver	CAT 299D
2014	Asphalt Milling Machines	Bronze	CAT PM200
2013	Concrete Breakers	Gold	CAT H90C
2013	Asphalt Pavers	Gold	CAT AP1055E
2013	Asphalt Pavers (Small)	Gold	CAT AP555E
2013	Asphalt Screeds	Gold	CAT AS3301C
2013	Compaction (Asphalt)	Gold	CAT CB64
2013	Compaction (Soil)	Gold	CAT CS56
2013	Recyclers/Reclaiming Machines/Soil Stabilizers	Gold	CAT RM500
2013	Track type Tractors (Dozers)	Gold	CAT D6T
2013	Excavators	Gold	CAT 320D L
2013	Specialty Excavators	Gold	CAT 328D LCR
2013	Loader Backhoes	Gold	CAT 420E
2013	Mini Excavators	Gold	300.9D
2013	Telehandlers	Gold	CAT TH514
2013	Wheel Loaders	Gold	CAT 930H
2013	Off-Highway Trucks	Gold	CAT 775G
2013	Motor Graders	Gold	12M2 AWD
2013	Software (Fleet Management)	Gold	CAT Product Link / Vision Link
2013	GPS/Laser-Guided Equipment	Silver	Cat Grade Control
2013	Skid-Steer Loaders	Silver	CAT 259B3
2013	Asphalt Milling Machines	Bronze	CAT PM200
2013	On-Highway Trucks	Bronze	CT660

Included Links for additional Road and Bridges information:

http://www.cat.com/en_US/articles/customer-stories/awards/cat-products-receive-top-100-and-contractors-choice-awards.html

http://www.cat.com/en_US/articles/customer-stories/awards/cat-products-receivecontractorschoiceawardsin19categories.html

http://www.cat.com/en_ID/articles/customer-stories/cat-products-receivecontractorschoiceawardsin21categories.html

The following is a list of additional industry accolades that Caterpillar has received in recent years:

- Caterpillar Ranked #82 on Interbrand's Best Global Brand List
- Caterpillar wins 2016 ANNY excellence in analytics award
- Caterpillar's Commitment to Sustainable Development Recognized by United Nations
- Caterpillar helps to protect 2,100 acres of coastal wetlands in California
- Caterpillar Awarded the Vision for America Award from the Keep America Beautiful Organization
- Caterpillar named finalist for prestigious sustainability honor – Circular Economy Award
- Caterpillar ranked 12 on the "Top 50 Employers" list in Women Engineer Magazine
- Caterpillar Named One of Fortune's World's Most Admired Companies In 2015
- Caterpillar Recognized on Interbrand's 2014 Best Global Green Brands
- Caterpillar named on Diversity Inc's Top 25 Noteworthy Companies for Diversity List for 2014
- Caterpillar of Australia Recognized For Commitment To Workforce Diversity
- Caterpillar Named One of North Carolina's Best Employers of 2014 by Business North Carolina
- Caterpillar Celebrates 60 Years in Brazil and is Chosen One of the Best Workplaces in the Country
- Caterpillar Named One of FORTUNE's World's Most Admired Companies in 2014
- Caterpillar Receives National Recognition for Hurricane Sandy Response
- Caterpillar Named a North Carolina Top 50 Family-Friendly Company
- Caterpillar Recognized for Supplier Diversity
- Caterpillar is #12 most Reputable Big Company
- Caterpillar ranked 27 on Fortune Magazine's list of the Worlds Most Admired Companies
- Caterpillar ranked 12 on the "Top 50 Employers" list in Women Engineer Magazine
- Caterpillar World Headquarters Awarded LEED-EB Gold from US Green Building Council

- Caterpillar China Wins 100 Best HR Management Companies of 2010
- Illinois Governor's Pollution Prevention Award
- Caterpillar World Headquarters Awarded US EPA Energy Star
- Caterpillar receives the International Pipeline and Offshore Contractors Association award for Eco Operator Training
- Caterpillar in Top 20 of Social Responsibility Ratings
- Caterpillar Chairman receives Distinguished Citizen Award
- Caterpillar Inc. Recognized as one of the World's Most Ethical Companies
- Newsweek Green Rakings ranks Caterpillar 72nd out of top 500 companies, 3 of top 20 industrial goods.
- Caterpillar ranked #9 on the 19th Annual "Top 50 Employers" list in Women Engineer magazine

4) Service

a. Provide a detailed written response illustrating how your firm or the authorized dealers will provide services to meet the requirements of this solicitation. Offerors shall provide the proposed services that will meet the Service Requirements section of the Scope of Work outlined in this solicitation. For each proposed category, describe and/or provide details explaining your capabilities. In your response include information such as:

1. Provide detailed information explaining your service capabilities.

Caterpillar Response

Caterpillar takes great pride in our foundation of outstanding product and customer support. While the actual service and support of products sold through this contract will be conducted by the selling dealer, Caterpillar supports their efforts through many channels.

We start by designing durable, reliable, long-lived products with ease of operation and service in mind. These products are thoroughly tested to validate the design. When approved for production, a very strict protocol is put into place to ensure strict adherence to the build plan. Quality inspections occur throughout the manufacturing process and again when it arrives at the local dealership.

Prior to first shipment, Caterpillar ensures that Dealer has access to Owning & Operating Manuals, Service Manuals, Parts Books, and Disassembly & Assembly Manuals.

Every Dealer has a process in place to troubleshoot and diagnose problems. Caterpillar also maintains a field force of technical representatives to ensure customer downtime is minimized. Factory service engineers work very closely with Dealers in situations where a problem cannot be easily resolved and engage all resources necessary for problem resolution.

2. Provide detailed information explaining the service capabilities of your authorized dealers.

Caterpillar Response

Caterpillar and Cat dealers offer industry leading product support. Field Service trucks with resident field technicians and parts drops provide a level of service unmatched in the industry to reduce down time and increase productivity.

All participating Dealers employ trained, experienced technicians to support Caterpillar's full range of products. Dealer Technical Communicators (TCs) provide additional support to field/shop technicians to aid in rapid product or application resolution. Dealer TCs have a direct line of communication with Caterpillar Inc. through the Dealer Solution Network to expedite problem solving.

Caterpillar's North American dealer network currently employs over 46,000 employees of which approximately 70% are dedicated to the product support business. With nearly 700 dealer branch locations and approximately 7,000 field service personnel, these highly skilled and trained Cat dealer technicians are in close proximity to provide unmatched service capabilities to meet your servicing requirements. As a commitment to servicing our customers, Cat dealers invest over $75 Million annually in technician, parts counter, and product support representative training. Over the last 90 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry through a financially healthy and viable dealer network that is dedicated to the business of our customers.

Caterpillar's ability to meet 24-hour service needs is based on servicing dealer discretion at time of transaction. However, most dealers offer a 24-hour emergency service call-out option with a price based on local rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer territory.

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Image 2: US Dealer Locations

3. Describe the maintenance programs offered. If a maintenance program is selected by the City, will your firm provide a loaner or rental machine if the machine is down for more than 24 hours?

Caterpillar Response

All Cat Dealers can customize maintenance programs for their customers based on each customer's individual needs. When a service or maintenance program is created, the terms of the program supported by the local Cat Dealer will outline any replacement / loaner options.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

4. Describe your training programs, addressing, at a minimum, the following:

   i. How will equipment training be conducted?
   ii. Describe the training curriculum for the equipment operators.
   iii. Describe the training curriculum for the service technicians.
   iv. How will you accommodate various work shifts?
   v. What type of documentation is provided with the proposed training?
   vi. Is a "train the trainer" program available? Is this training different than the regular initial training? Can training sessions be recorded for future use by the agency?
   vii. Is the training provided by the manufacturer, dealer or both?

Caterpillar Response

Dealers support a variety of training options. Upon delivery of the machine, operators as well as technicians will be given basic equipment orientation, operating procedures, and service maintenance information required to put the machine into service. Should an agency require additional training, such consideration can be included in the customer's equipment quotation.

Caterpillar also offers a variety of operator training classes that provide certification to those agencies that require a higher level of operational expertise.

For additional information on these and other training options, please visit: http://www.cat.com/en_US/support/operations/cat-training.html

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

5) Ordering and Invoices

a. Describe your order process.

Caterpillar Response

Understanding that dealers have been developing and maintaining customer relationships at the local level for more than 90 years, it is Caterpillar's intent to continue to support this proven model. It will be the local Dealer that will quote, deliver, receive payment and support the products in this proposal per the terms that have been outlined.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

b. How do agencies work with your firm to determine appropriate equipment needs?

Caterpillar Response

Dealers have sales and application specialists who can help an agency identify the best equipment option to fit the application. Once a need has been identified, it would be in the customer's best interest to consult with the local Dealer to determine the best possible equipment solution. Should additional expertise be required, Caterpillar has expertise within the company that can also provide assistance to ensure the most favorable outcome

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

c. Describe the equipment delivery process and your delivery commitment.

Caterpillar Response

It will be the local Dealer that will quote, deliver, receive payment for, and support the products in this proposal per the terms that have been outlined.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

d. What is your standard equipment delivery timeframes?

Caterpillar Response

Depending on Dealer inventory, delivery can be as quick as a day, but depending on demand, orders from the factory may take as long as 180 days to deliver. In most cases Dealers have been able to commit to a less than 90 day delivery timeframe. However, timelines need to be confirmed for each purchase.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

e. How does your firm communicate order cut off dates to your customers?

Caterpillar Response

Any questions with regards to an order will be addressed by the local supporting Dealer.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

f. Identify and describe any exceptions or challenges.

Caterpillar Response

Should an urgent US military equipment order be placed at the factory it will take precedence over any other customer orders which may delay the actual delivery of any non-military orders to the end user.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

g. Provide details of the capabilities of your E-Commerce website including ability to display contract pricing, on-line ordering, order tracking, search options, order history, technical assistance, lists, technical data and documentation, identification of alternate green products, etc.

Caterpillar Response

E-Commerce capabilities are set up at a local level with the supporting Dealer. Most Dealers allow online parts ordering and while it will vary based on the individual Dealer, many offer customer portals that allow communications specific

a customers' account. This could include machine purchase and service history, maintenance schedules, technical documentation, condition monitoring and more. Please inquire locally to determine what services are available online.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

h. Describe your invoicing process. Is electronic invoicing available? Is summary invoicing available? Are there other options on how an agency receives an invoice? Submit sample invoices.

Caterpillar Response

Dealers can currently provide a pro-forma invoice prior to receipt of the actual invoice. Requests for electronic invoicing should be made to the selling Dealer. Not all Dealers are able to offer electronic invoices.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

i. Describe how problems – such as a customer ordering a wrong product; a customer receiving a defective or wrong product; etc. – are resolved.

Caterpillar Response

In most cases working with the dealer account manager will alleviate any wrong order issues. In the event that this does not resolve the issue, the Dealer will work to resolve incorrect orders as cost effectively as possible.

Defective products are covered by manufacturer's warranty.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

j. Describe how your firm measures performance including identification, calculation, tracking and reporting of measurements.

Caterpillar Response

Purchase orders received from a customer can be filled by an authorized dealer from inventory or by placing a new order from the factory. In either scenario, the customer will be advised about the timeline prior to delivery.

When sold, Dealers are obligated to report the sale to Caterpillar with detailed information about the sale. This creates a record in the corporate systems so that we are aware when a sale has been made to a governmental agency using this contract (National IPA).

Machine sales are only reported when the Dealer has input the transaction information into the system and the machine has been assigned to the respective industry. The sales are compiled monthly and reported back to National IPA.

k. Titles- will equipment be provided with proof of registration with the state?

Caterpillar Response

Where appropriate, all titles will be provided with proof of registration with the state.

l. Will each product be delivered free of distributor advertising?

Caterpillar Response

The buying agency and Dealer can determine what advertising is appropriate or not. There will never be a manufacturer requirement for the machine to carry a company decal/logo or to include distributor advertising.

6) Other

a. Describe any government rebate programs applicable.

Caterpillar Response

No specific governmental rebate programs are currently available.

B. Price Proposal

1) Provide a Price Proposal. Submit the Price Proposal as a separate and clearly identified document. The Price Proposal shall minimally include the following: Offerors shall submit pricing based on the Equipment, Product Requirements and Service Requirement categories identified on the Scope of Services. Pricing should be based upon a verifiable pricing structure, such as a fixed percent discount from an index or indices or established price list, etc. Where applicable, Offerors shall provide pricing for all product and services offered. Describe how pricing is determined for a base model equipment purchase and how pricing is determined for options, accessories and services. Identify the price list being used and include an electronic copy (or website link) so that net prices can be determined.

The price proposal should include pricing for equipment, accessories and options, parts, service and any additional value-add goods or services available such as financing, rental and used equipment for purchase from the vendor. Vendors must indicate if discounts are based on manufacturer price lists or dealer price lists.

In order to allow ordering flexibility for equipment that is mounted to a chassis, Offerors should provide a separate pricing structure for each the chassis and the truck, in addition to a total pricing structure for the complete piece of equipment.

Caterpillar Response

Each Caterpillar machine model will be assigned specific discount off the manufacturer's published list price for that particular machine and or piece of equipment. This discount will be extended to all additional options from the machine / option price list that are requested by the customer and become part of the final machine configuration. The published list price for the base machine and/or any additional options included in the published machine / option price list will be considered the maximum price for the specific final machine configuration. The associated discount will be considered the minimum discount that the local supporting Dealer has agreed to honor. It is our intention to provide the contract administrator with the City of Tucson with password protected access to our price lists housed on a secure internet platform. This ensures price lists will always be up to date.

Any additional items above and beyond those included in the Caterpillar Price Lists such as prep, extended warranties, delivery costs, customer service agreements, pre-delivery and installation, will be priced at the supporting Cat Dealer's discretion.

Financing for new and used Caterpillar products is available through a variety of financial products including Installment Sales Contracts, Finance Lease and Off Balance Sheet Operating Lease contracts. Rates and terms will be determined locally.

In an effort to provide even more customer solutions, Caterpillar will be supporting a special Used Equipment program for customers that choose to purchase products using this contract. With the exception of Cat work tools, Caterpillar will be extending a 20% discount off the original list price of used Caterpillar equipment that is currently in the Dealer's rental fleet that the Dealer agrees to sell. At their discretion, Dealers will have the ability to extend this program to customers for the purchase of work tools. Please note that this used program is subject to availability.

Parts, service work and rental is also available through this contract. There is no national price list for these options and as such prices will be determined locally based on volume of purchases and prevailing rates.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

2) Based on your distribution network, explain how freight is calculated.

Caterpillar Response

The freight and delivery costs vary by product and will be quoted separately. Our products are manufactured in locations around the globe and vary considerably in size and weight so costs to transport our products to the selling dealer will vary widely.

If the customer chooses to have the Dealer deliver those machines to the purchaser's location the cost would be calculated based on the distance from the Dealer's place of business. The Dealer will quote actual shipping and prep costs for each machine quoted through this contract.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

3) The discount structure provided by the supplier is intended to remain constant throughout the term of the Contact. Discuss how often price lists are updated and provide a listing of price list changes that have taken place over the last 3 years. Discuss any known future price list changes or industry changes that will effect pricing over the next 5 years.

Caterpillar Response

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SEE CATERPILLAR/CITY OF TUCSON CONFIDENTIAL DOCUMENT

4) State if pricing is most favorable offered to government agencies. Describe how your firm will ensure this contract will continually offer the best pricing available to Participating Public Agencies.

Caterpillar Response

Dealers are independent businesses and Caterpillar does not dictate pricing. It is the intent that with the "Maximum Price / Minimum Discount" model, that all Dealers will have the flexibility to extend the lowest competitive price to the agencies who choose to use the contract. Manufacturer's incentives may be periodically provided and may be regionally based.

Please refer to supplemental proposal, Empire Machinery Products and Services, for the City of Tucson and the extended Empire Machinery dealer service territory.

5) Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

Caterpillar Response

No additional volume rebate program is included in this proposal, however customers and their local Dealer may enter into agreement for additional discounts and or other value added provisions within the spirit of the "Maximum Price / Minimum Discount" model for volume purchases that are in line and conform to all the terms and conditions covered by the contract.

6) Provide information on any ordering methods – such as electronic ordering or payment via pCard or EFT – or other criteria which entitle the using agency to additional discounts.

Caterpillar Response

None available at this time.

7) As stated in the Instructions to Offerors, 7. Discounts, the price(s) herein can be discounted by _0_ %, if payment is made within 0 days. These payment terms shall apply to all purchases and to all payment methods.

8) Will payment be accepted via commercial credit card?__Yes _X*_No

a. If yes, can commercial payment(s) be made online? __Yes ___No
b. Will a third party be processing the commercial credit card payment(s)? __Yes __No
c. If yes, indicate the flat fee per transaction $____(as allowable, per Section 5.2.E of Visa Operating Regulations).
d. If "no" to above, will consideration be given to accept the card? _X*_Yes __No

Caterpillar Response

*Commercial Credit Card acceptance (online or in person) is in the Dealer's discretion. Not all dealers will accept payment by credit card. Limits and conditions may be imposed by the local Dealer.

Dealers, either independently or in conjunction with Cat Financial may offer lines of credit to governmental purchasers.

9) Does your firm have a City of Tucson Business License? __X__Yes _X__ No

a. If yes, please provide a copy of your City of Tucson Business license.

Caterpillar Response

Caterpillar is proud to have a large presence in the City of Tucson as we recently relocated a major division with 600+ employees to the city. However, that office conducts no retail business and as such does not hold a business license. Please refer to supplemental documents which includes email confirmation from City of Tucson taxing authorities.

The local Dealer, Empire Machinery, has a City of Tucson Business license.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory.

C. Qualifications & Experience

1) Provide a brief history and description of your company. Describe your market position in the local government, educational and medical market spaces.

Caterpillar Response

For more than 90 years, Caterpillar has been making sustainable progress possible and driving positive change on every continent. Customers turn to Caterpillar to help them develop infrastructure, energy and natural resource assets. With 2015 sales and revenues of $47 billion, Caterpillar is the world's leading manufacturer of construction and

mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. The company principally operates through its three product segments - Construction Industries, Resource Industries and Energy & Transportation - and also provides financing and related services through its Financial Products segment. The Caterpillar Dealer organization has been a key component of Caterpillar's success. Caterpillar subscribes to the philosophy we need our dealers, and our customers to be successful, in order for us to continue to grow profitably. It's a symbiotic relationship where all benefit when all grow together. This success is evident in the fact that many of our dealer s have been owned by the same family for multiple generations.

Caterpillar is a leader in the heavy equipment business. This leadership also extends to sales to governmental agencies.

One of the largest factors for Caterpillar's continued success is that our customers have realized that they get the best overall value when they purchase Caterpillar. When considering the total cost of ownership, it's important to include the following factors. For any specific product, the Dealer would be able to provide detailed information tailored to the local market.

- Operating costs (include fuel burn, a key trait for which Caterpillar is broadly considered most efficient)
- Maintenance costs
- Repair costs
- Safety design and performance
- Productivity
- Ease of operation
- Reliability
- Resale value

2) Describe your dealer network and their role in providing products and services under this contract.

Caterpillar Response

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance, payment receipt and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective territories.

Specific information about dealers is located on
http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealer network currently employs over 46,000 total employees. 5,500 of these employees are dedicated to machine sales. Many dealers

have enough opportunity in the governmental market to employ sales people whose careers are dedicated to and specialized in the governmental industry. Approximately 70% of dealer employees are dedicated to product support. The Cat dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

3) Provide a listing of key personnel who will be assigned to the City's contract. Include their title within your organization and the description of the type of work they may perform. Please identify an executive corporate sponsor who will be responsible for the overall management of the awarded Master Agreement.

Caterpillar Response

Nationally, the contract will be managed by:

Patty Redpath
Governmental Account Manager
100 NE Adams St.
Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory for specific contacts for the City of Tucson.

4) Summarize your experience in providing equipment, products and services similar to that outlined in the Scope of Work. Provide a minimum of three references for which you have provided similar products and services. References from other public agencies, particularly municipal governments, are preferred. Please include company name, address, phone, email, and contact person.

Caterpillar Response

For the last 90 years, Caterpillar's principal line of business has been the manufacture, sales and support of construction equipment. Throughout our history we have worked in close consort with our authorized dealers and that successful model has not substantially changed since its inception.

We have many satisfied customers in public agencies and refer you to Empire Machinery's response for three local agencies who are pleased with their support.

It is also important to reference the working partnership between Caterpillar, Empire Machinery, City of Tucson and National IPA for the past five years. The performance under contract #120377 is evidence of a strong and successful relationship. It is our desire to maintain this high level of cooperation as we move forward under this new RFP. We are deeply appreciative of the confidence placed in our machines and service and we value your business. We will do everything possible to maintain your trust as we look to forward to mutually beneficial contract going forward.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer territory for local customer references.

5) Please submit any additional information that you feel is applicable to your qualifications and experience.

Caterpillar Response (Only)

- CONFIDENTIAL – Request confidential treatment –

SEE CATERPILLAR/CITY OF TUCSON CONFIDENTIAL DOCUMENT

6) Provide the qualifications of technicians that will be servicing equipment throughout the nation.

Caterpillar Response

All Dealers employ highly trained and experienced technicians that have completed numerous factory training programs. Each dealer can expound on their own specific requirements but overall our technician capability is excellent.

Please refer to supplemental proposal, Empire Machinery Products and Services for the City of Tucson and the extended Empire Machinery dealer service territory.

7) Describe your quality control program including but not limited to: what is your quality control procedures, who performs the quality control inspection? What are the qualifications of the inspectors? What items are inspected / tested? Etc.

Caterpillar Response

Quality levels are at the highest in company history. In 2013, Caterpillar implemented Lean methodology. Lean is built on a strong foundation of 6 Sigma and Caterpillar Production Systems (CPS). Lean is how Caterpillar eliminates waste and drives efficiencies. By standing up quality gates throughout the production processes, Caterpillar can stop defects – first by catching them at the quality gates, and then by eliminating them. Lean has been deployed at more than 94 production facilities throughout the enterprise.

In the production facilities, qualified technicians perform a battery of tests to ensure that the products leaving Caterpillar plants are operating to the outlined specifications before delivery to the customer. These tests cover the electronic system, hydraulic systems, and powertrain systems on every machine we build. In addition to static testing procedures, trained operators perform a series of road tests and simulated operational maneuvers in dedicated locations at the plant prior to shipment. Should a machine exhibit any functional issues or fail a quality control benchmark at any point in the manufacturing process, the production line will either be shut down to remedy the issue or the machine will be removed completely from the production line. The unit will then be assigned a specific troubleshooting cell to perform the necessary corrections or repairs at which point it will be re-subjected to the battery of tests until such time it meets Caterpillar's quality control standards.

Upon arrival at a dealership a detailed pre-delivery inspection will be performed. Deviations from expected condition or operational performance will be noted, reported and corrected before delivery. It is also recommended for the customer to inspect the machine prior to first use.

National IPA Exhibit A – National IPA Response for National Cooperative Contract

3. SUPPLIER QUALIFICATIONS

Supplier must supply the following information in order for the Principal Procurement Agency to determine Supplier's qualifications to extend the resulting Master Agreement to Participating Public Agencies through National IPA.

3.1 Company

A. Brief history and description of your company.

For more than 90 years, Caterpillar has been making sustainable progress possible and driving positive change on every continent. Customers turn to Caterpillar to help them develop infrastructure, energy and natural resource assets. With 2015 sales and revenues of $47 billion, Caterpillar is the world's leading manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. The company principally operates through its three product segments - Construction Industries, Resource Industries and Energy & Transportation - and also provides financing and related services through its Financial Products segment. The Caterpillar Dealer organization has been a key component of Caterpillar's success. Caterpillar subscribes to the philosophy that there are three main partners in our business – Caterpillar, Cat dealers and customers. All three elements must be successful individually for all three to be successful over the long term. It's a symbiotic relationship where all benefit when they all grow together. This success is evident in the fact that many of our dealers are owned by multiple generations of the same family and multiple generations of customers continue to purchase products and services.

B. Total number and location of sales persons employed by your company.

Cat machines and engines are distributed principally through a worldwide network of dealers. 49 dealers are located in the United States, 4 in Canada and 122 located outside North America.

Caterpillar and Dealers will provide governmental customers with a reliable and viable distribution channel. They will manage the entire sales process from machine selection, quotation, PO acceptance and product delivery. In addition to sales, Dealers also will provide parts and service support. Cat dealers average more than 60 years of experience within their respective service territories. Specific information about dealers is located on http://www.cat.com/en_US/support/dealer-locator.html

Caterpillar's North American dealers currently employ more than 46,000 total employees. 5,500 of these employees are dedicated to machine sales and many dealers have sales persons dedicated to the governmental market. Approximately 70% of dealer employees are dedicated to product support. The dealer network brings value to customers through unmatched service, integrated solutions, after-sales support, and fast and efficient parts fulfillment.

C. Number and location of support centers (if applicable).

Caterpillar products are sold and supported by our authorized dealer network of 49 dealers in the US and 4 in Canada. These dealers are established, independent businesses that understand well the needs of their local customers and communities. These dealers typically have the majority of parts on-hand and the national average for 24-hour availability is 99%. In addition, Caterpillar maintains 10 parts distribution warehouses throughout the country to ensure that almost all parts can reach a customer within 24-48 hours.

In North America Caterpillar has 15 Product Distribution Centers (PDCs), which stock Cat machines in inventory to help supply equipment for our customers' needs/demands. The current estimated dollar value of machines in Caterpillar PDCs are estimated at more than $400M. Cat Dealers across North America also carry Cat machines in their inventory for immediate sale. The number and the type of machines in our dealer inventory will vary based on local demand and desired configurations.

Each Cat dealer operates in multiple branch locations and uses parts drop boxes and mobile service trucks.

Product support and parts availability are the hallmarks of Caterpillar's success and we take great pride in leading the industry in availability. Subsection d below expands on some of these capabilities.

Image 1, Caterpillar Dealer Brach Operations

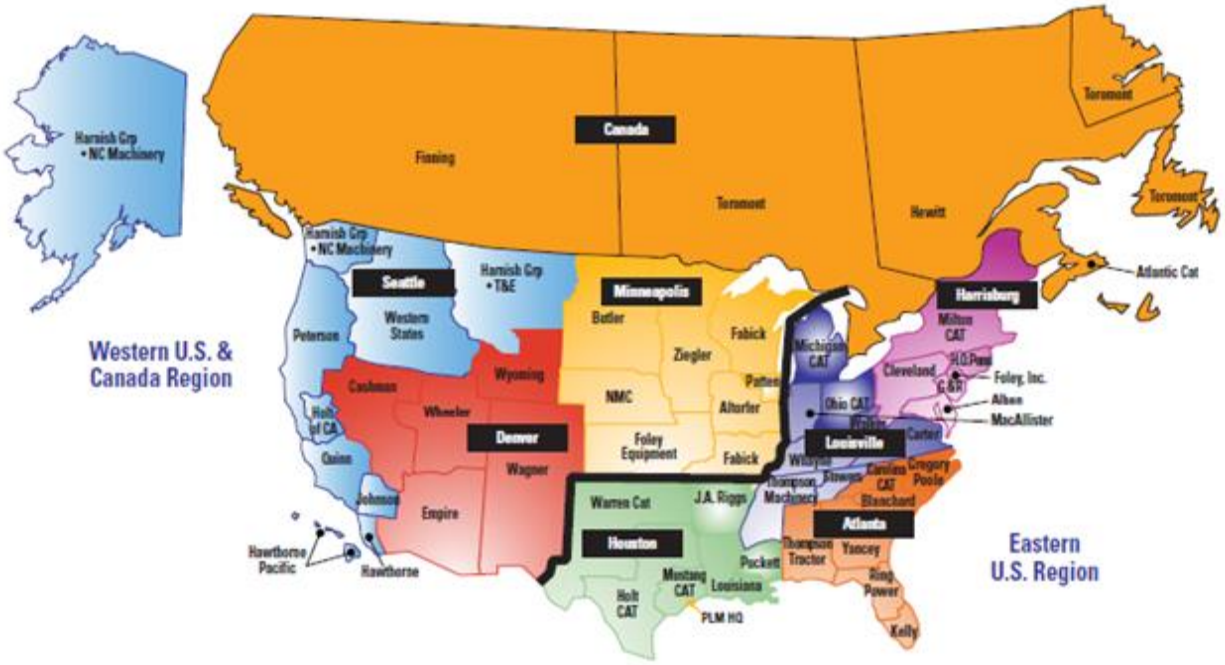


Image 2, Caterpillar North American Dealer Territories

D. Annual sales for the three previous fiscal years.

2013 – $55.6B
2014 – $55.1B
2015 - $47.0B

E. Submit your FEIN and Dunn & Bradstreet report.

Caterpillar's Employee Identification Number is 37-0602744

Please refer to vendor's response section Dunn & Bradstreet

3.2 Distribution, Logistics

A. Describe how your company proposes to distribute the products/service nationwide.

Caterpillar products and services are distributed principally through a worldwide network of independent dealers (dealer network), which includes 49 located in the United States, and 4 in Canada.

See Image 2, above.

B. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.

All North American dealers and or their subsidiaries process, handle or ship the products / services to end users. Outside companies are used to transport equipment, but do not assume ownership.

C. Provide the number, size and location of your company's distribution facilities, warehouses and retail network as applicable.

Caterpillar operates parts distribution centers in the following locations: Morton, Illinois; Arvin, California; Denver, Colorado; Miami, Florida; Atlanta, Georgia; St. Paul, Minnesota; Clayton, Ohio; York, Pennsylvania; Waco, Texas; Spokane, Washington; Melbourne, Australia; Queensland, Australia; Grimbergen, Belgium; Piracicaba, Brazil; Shanghai, China; San Luis Potosi, Mexico; Singapore, Republic of Singapore; Moscow, Russia; Johannesburg, South Africa, and Dubai, United Arab Emirates. We also own or lease other facilities that support our distribution activities.

Our current principal manufacturing facilities include those used by the following segments in the following locations:

Segment	U.S. Facilities	Facilities Outside the U.S.
Construction Industries	**Arkansas:** North Little Rock **Illinois:** Aurora, Decatur, East Peoria **North Carolina:** Clayton, Sanford **Texas:** Victoria **Georgia:** Athens	**Belgium:** Gosselies **Brazil:** Campo Largo, Piracicaba **China:** Suzhou, Wujiang, Xuzhou, Qingzhou **France:** Grenoble, Echirolles **Hungary:** Godollo **India:** Thiruvallar **Indonesia:** Jakarta **Japan:** Akashi, Sagamihara **Poland:** Janow, Sosnowiec **Russia:** Tosno, Novosibirsk **United Kingdom:** Desford, Stockton **Thailand:** Rayong

Resource Industries	**Illinois:** Aurora, Decatur, East Peoria, Joliet **North Carolina**: Winston-Salem **Pennsylvania:** Houston **South Carolina:** Sumter **Tennessee:** Dyersburg **Texas:** Denison **Wisconsin:** South Milwaukee	**Australia:** Beresfield, Burnie **China:** Langfang, Tongzhou, Wuxi, Zhengzhou **Czech Republic:** Ostrava **France:** Arras **Germany:** Dortmund, Lunen **India:** Hosur, Thiruvallur **Indonesia:** Batam **Italy:** Jesi **Japan:** Sagamihara **Mexico:** Acuna, Monterrey, Reynosa, Torreon **Russia:** Tosno **Thailand:** Rayong **United Kingdom:** Peterlee
Energy & Transportation	**Alabama:** Albertville, Montgomery **California:** San Diego **Georgia:** Griffin **Illinois:** LaGrange, Mossville, Mapleton, Pontiac **Indiana:** Lafayette, Muncie **Kentucky:** Decoursey, Louisville, Mayfield **South Carolina:** Newberry **Texas:** Channelview, De Soto, Mabank, San Antonio, Schertz, Seguin, Sherman	**Australia:** Revesby **Belgium:** Gosselies **Brazil:** Curitiba, Hortolandia, Piracicaba, Sete Lagoas **China**: Tianjin, Wuxi **Czech Republic:** Zatec **Germany:** Kiel, Mannheim, Rostock **India:** Hosur, Aurangabad **Mexico:** San Luis Potosi, Tijuana **Republic of Singapore:** Singapore **Sweden:** Ockero Islands **Switzerland:** Riazzino **United Kingdom:** Larne, Monkstown, Peterborough, Sandiacre, Shoreham, South Queensferry, Springvale, Stafford, Wimborne

D. State any return and restocking policy and fees, if applicable, associated with returns.

N/A

E. Describe the full line of products and services offered by your company.

Caterpillar is the world's leading manufacturing of construction and mining equipment, diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. Caterpillar also provides financing and related services through its Financial Products division.

All products sold by Caterpillar through its dealer network in the United States are included in this proposal. The product lines most relevant to this solicitation included but not limited to:

Construction & Paving Equipment
Articulated Dump Trucks
Asphalt Cold Planers
Asphalt Rotary Mixer
Dozers / Tracked
Dozers / Wheeled
Excavators / Tracked
Excavators / Wheeled
Loaders / Tracked
Loaders / Wheeled
Motor Graders
Paver / Tracked
Paver / Wheeled
Asphalt Compactors - Vibratory
Asphalt Compactors – Pneumatic
Scrapers
Skid Steer Loaders / Wheeled
Compact Track Loaders
Multi-Terrain Loaders
Skip Loaders
Soil Compactors
Telehandlers

Landfill Equipment
Landfill Dozers
Landfill Compactors
Landfill Scrapers

Work Tools (requires host machine)
Buckets
Augers
Thumbs
Hammers
Trenchers
Couplers

Generators & Power Systems
Gas and Diesel Engines
20kW to 16 mW Single Engines
Prime Power
Cogeneration

Additionally, Dealers often carry lines of complementary products not manufactured or marketed by Caterpillar that can be sold as allied machines. With this in mind, most of the products listed in this RFP can be provided either through Cat dealers as a branded Caterpillar product, or as allied equipment.

In addition to the new machines and power systems mentioned above, Caterpillar dealers also offer a complete line of OEM repair parts, work tools and attachments that are included in our offer.

Services such as repairs, rebuilds, maintenance, financing, extended protection plans, training, consulting, remote monitoring and more are offered by all Cat dealers and also included under this contract.

The purchasing of used equipment and the renting of equipment is included under this contract and sale/rental prices will follow the same maximum price minimum discount method as purchasing new equipment off this contract. This ensures when purchasing/renting these types of machines they are competitively priced based on like machines in the market place.

Additional services and other lines of equipment may be available depending on local dealer capabilities.

For the purposes of calculating the administrative fees associated with cooperative purchasing, only new Cat equipment sales will qualify as it is impossible for Caterpillar to track and measure sales of parts, service, used, rental, and allied equipment.

3.3 Marketing and Sales

A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as your company's primary go to market strategy for Public Agencies to your teams nationwide, to include, but not limited to:

i. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days.
Agree.

ii. Training and education of your national sales force with participation from the executive leadership of your company, along with the National IPA team within first 90 days

Should Caterpillar be awarded the contract a formal announcement of the award will be made to Caterpillar's field force and Caterpillar's dealer network. We anticipate this first communication to take place within the first 30 days of final award.

Since the roll-out of the City of Tucson National IPA contract in 2012, Caterpillar and Dealers continue to discover the value in selling machines from a cooperative contract that has a lead agency with a strong nationally recognized procurement department attached to a nationally recognized municipality such as the City of Tucson. This combined with a single source award makes this a very attractive contract to support the needs of end users nationwide.

We will continue to aggressively market the Master Agreement and continue ongoing sales training. The growth rate from the previous contract has been impressive and we have every reason to believe that the trend will continue.

B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Pubic Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:

i. Creation and distribution of a co-branded press release to trade publications
Agreed.

ii. Announcement, contract details and contact information published on the Supplier company website within first 90 days
Agreed.

iii. Design, publication and distribution of co-branded marketing materials within first 90 days
Agreed.

iv. Commitment to attendance and participation with National IPA at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement
Agreed as calendars and budgets allow.

v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by National IPA for partner suppliers. Booth space will be purchased and staffed by your company. In addition, you commit to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by National IPA.
Agreed as calendars and budgets allow.

vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement
Agreed as budgets allow.

vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)
Agreed.

viii. Dedicated National IPA internet web-based homepage on Supplier website with:
- National IPA standard logo;
- Copy of original Request for Proposal;

- Copy of contract and amendments between Principal Procurement Agency and Supplier;
- Summary of Products and pricing;
- Marketing Materials
- Electronic link to National IPA's website including the online registration page;
- A dedicated toll free number and email address for National IPA

Caterpillar internet standards will not allow a dedicated page on our website, however we will be able to make the information above accessible to customers and dealers. We strongly believe that directing customers to the National IPA webpage has an advantage over reproducing the information on our own site. Seeing the breadth and scope of additional contracts adds to the overall credibility of the concept.

Caterpillar has been very successful promoting the National IPA contract since it was first awarded. We intend to continue this promotion strategy. We will continue to work closely with the National IPA account manager and marketing teams to be certain we are working well together to pursue our mutual goal of growing contract sales.

While our marketing budget may prohibit executing some of the activities mentioned above, it is our intention to comply with the spirit of the section.

Additionally, many of our dealers have public websites that provide similar information to the market. The following is an example of Empire Machinery's web link:

http://www.empire-cat.com/cooperativepurchasing/?terms=city%20of%20Tucson

C. Describe how your company will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through National IPA. Include a list of current cooperative contracts (regional and national) your company holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

Since roll-out of the City of Tucson National IPA contract in 2012, Caterpillar and Cat dealers continue to discover the value in selling machines from a cooperative contract that has a lead agency with a strong nationally recognized procurement department attached to a nationally recognized municipality such as the City of Tucson. This combined with a single source award makes this a very attractive contract to support the needs of our customers nationwide.

Caterpillar will encourage dealers and customers to embrace cooperative purchasing and we will ensure that there are no corporate roadblocks to adoption. However, ultimately, the decision to use contracts lies with the public agency itself. Therefore, transitions to the contract will take place at the pace that agencies feel comfortable.

Caterpillar presently holds two cooperative contracts. Those contracts are NJPA Heavy Equipment Contract #032515 and NJPA Alternative Energy / Generators Contract #080613. Caterpillar, through Caterpillar's Defense and Federal Products business unit, currently holds GSA contract #GS30F0018U.

For the purpose of this proposal, Caterpillar's NJPA Heavy Equipment Contract #032515 provides the same product offering and discount structure as is being submitted in this proposal.

D. Acknowledge that your company agrees to provide its company/corporate logo(s) to National IPA and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of National IPA logo will require permission for reproduction, as well.

Per corporate brand and legal guidelines, Caterpillar company logos can be used by National IPA pursuant to existing contract.

Caterpillar will request proper permission to use the National IPA logo as well.

E. Supplier is responsible for proactive direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by National IPA. All sales materials are to use the National IPA logo. At a minimum, the Supplier's sales initiatives should communicate:
   i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
   ii. Best government pricing
   iii. No cost to participate
   iv. Non-exclusive contract

Should Caterpillar be awarded the contract, Caterpillar ensures that training and marketing materials associated to the Master Agreement will clearly communicate the advantages of the National IPA agreement.

F. Supplier is responsible for the training of its national sales force on the Master Agreement. At a minimum, sales training should include:
   i. Key features of Master Agreement
   ii. Working knowledge of the solicitation process
   iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through National IPA
   iv. Knowledge of benefits of the use of cooperative contracts

Should Caterpillar be awarded the contract, Caterpillar will ensure that training and marketing materials associated with the Master Agreement will continue as described above.

G. Provide contact information for the person(s), who will be responsible for:
   i. Marketing
   ii. Sales
   iii. Sales Support
   iv. Financial Reporting
   v. Contracts

Patty Redpath
Governmental Sales
100 NE Adams St, Peoria, IL 61629
Office: 309-494-4578
Redpath_Patty@cat.com

H. Describe in detail how your company's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

Caterpillar's North American field force is divided into eight districts including Canada. Each district has marketing representatives that are responsible for working with assigned dealers within their service territory. The eight districts are divided into a Western Region and an Eastern Region. Both a Western Region Manager and an Eastern Region Manager report to Brian Foster who serves as the Industry Sales Manager for Americas North.

Brian Foster
Americas North Sales Manager
309-675-5181
FOSTER_BRIAN_V@cat.com

I. Explain in detail how the sales teams will work with the National IPA team to implement, grow and service the national program.

Through our governmental specialists and the contract manager, Caterpillar will develop training materials along with marketing initiatives specific to the cooperative purchasing model to ensure that dealers are equipped with the necessary tools to present the message to the customer with confidence.

Cat dealer sales representatives have developed relationships with the National IPA sales representatives. As these relationships continue to grow, the results can be expected to grow as well.

J. Explain in detail how your organization will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set- up, etc.

The contract manager will be the single point of contact for any issues related to supporting, maintaining, and promoting the contract. It will be up to each individual

dealer to identify those customers that would benefit from the program's use and will promote it accordingly.

K. State the amount of your company's Public Agency sales for the previous fiscal year. Provide a list of your top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

- CONFIDENTIAL – Request confidential treatment –

SEE CATERPILLAR/CITY OF TUCSON CONFIDENTIAL DOCUMENT

L. Describe your company's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

Caterpillar receives orders and payments from dealers. The equipment then becomes part of a dealer's inventory until sold to a customer. When a public agency decides to purchase a machine through this master contract, Caterpillar will offer additional support to the dealer via our post-sale credit system. The dealer will be required to submit the agency's name, address, member number and purchase amount. Caterpillar has no way to track sales of parts, service, used machines or rentals.

M. Provide the Contract Sales (as defined in Section 10 of the National Intergovernmental Purchasing Alliance Company Administration Agreement) that your company will guarantee each year under the Master Agreement for the initial three years of the Master Agreement ("Guaranteed Contract Sales").

$ .00 in year one
$ .00 in year two
$ .00 in year three

To the extent Supplier guarantees minimum Contract Sales, the administration fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.

Caterpillar will not guarantee a minimum number of sales. Dealers and customers have high level of awareness about the contract. Sales should continue to grow as a result of their satisfaction with the process.

N. Even though it is anticipated that many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.

i. Respond with Master Agreement pricing (Contract Sales reported to National IPA).
ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to National IPA under the Master Agreement.
iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to National IPA).
iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail your strategies under these options when responding to a solicitation.

Caterpillar will report sales to National IPA when a customer has requested that the sale take place via the contract. In any other situation Caterpillar will consider the sale a non-contract sale and will not be responsible for any fees.

CATERPILLAR®

Caterpillar Inc.
100 NE Adams Street
Peoria, IL 61629

November 14, 2016

Jeffrey Whiting
Department of Procurement
Contract Officer
255 W. Alameda, 6th Floor
Tucson, AZ 85701

Dear Mr. Whiting,

It is with great pleasure that Caterpillar Inc. has been given an opportunity to respond to RFP #161534. We have found that our participation in the previous contract was beneficial to us as a manufacturer, our authorized dealers, and from many positive points of feedback – from governmental customers as well.

As you will see in the following pages, we have structured the response in two parts. The response from Caterpillar Inc., considers the entirety of our US Dealer Network who will be encouraged to use this contract via National IPA. Then for a very specific response to the needs of the City of Tucson, our local authorized dealer, Empire Machinery has added a response to detail their capabilities and commitments.

To facilitate your review of the documents, we have separated these responses into five main sections:
1) Questionnaire Responses to the City of Tucson;
2) Questionnaire Responses to National IPA;
3) Proposed Exceptions;
4) Empire Machinery Responses;
5) Attachments

If you have any questions during your review of these documents we would be happy to clarify.

We look forward to continuing our relationship with the City of Tucson and National IPA and trust that our submission will not only meet your needs and expectations – but exceed them!

Most sincerely,

Ann Schreifels
Governmental Sales Manager
Schreifels_ann_m@cat.com
309-338-5976

OFFER AND ACCEPTANCE

OFFER

TO THE CITY OF TUCSON:
The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

Caterpillar Inc.
Company Name

100 NE Adams St.
Address

Peoria IL 61629
City State Zip

Signature of Person Authorized to Sign

Brian Foster
Printed Name

North American Sales Manager
Title

For clarification of this offer, contact:

Name: Patty Redpath

Title: Governmental Account Manager

Phone: 309-494-4578

Fax: 309-675-4301

E-mail: redpath_patty@cat.com

ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. 161534-_____.

CITY OF TUCSON, a municipal corporation

Approved as to form this_____day of_____, 2016.

As Tucson City Attorney and not personally

Awarded this_____day of_____, 2016.

Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM
As Director of Procurement and not personally

REQUEST FOR PROPOSAL AMENDMENT

CITY OF TUCSON
DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726
ISSUE DATE: SEPTEMBER 29, 2016

REQUEST FOR PROPOSAL NO. 161534
RFP AMENDMENT NO. ONE (1)
PAGE NO. 1 OF 1
RFP DUE DATE: NOVEMBER 14, 2016 @ 4:00 P.M. Local AZ Time
RESPONSIBLE CONTRACT OFFICER: JEFFREY WHITING

A SIGNED COPY OF THIS AMENDMENT MUST BE SUBMITTED WITH YOUR SEALED PROPOSAL.
THIS REQUEST FOR PROPOSAL IS AMENDED AS FOLLOWS:

Heavy Equipment, Parts, Accessories, Supplies and Related Services

ITEM NO. ONE (1):

RFP DUE DATE: The Proposal Due Date and Time is hereby **changed**, and shall be **November 14, 2016 at 4:00pm**.

ITEM NO. TWO (2):

RFP PRE-PROPOSAL DATE: The Pre-Proposal Date and Time is hereby **changed**, and shall be on **October 12, 2016 at 10:00am, City Hall 1st Floor Conference Room, 255 W. Alameda, Tucson AZ 85701**.

ALL OTHER PROVISIONS OF THE REQUEST FOR PROPOSAL SHALL REMAIN IN THEIR ENTIRETY.
VENDOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.

Ann Schreifels 11/11/16
Signature Date

Ann Schreifels Governmental Sales Manager
Print Name and Title

Caterpillar Inc
Company Name

100 NE Adams St.
Address

Peoria IL 61629
City State Zip

Caterpillar Inc.
100 NE Adams Street
Peoria, IL 61629

November 14, 2016

Jeffrey Whiting
Contract Officer
City of Tucson
255 W. Alameda, 6th Floor
Tucson, AZ 85701

Dear Mr. Whiting:

We are very pleased to submit Caterpillar Inc.'s proposal in response to RFP #161534. The attached document outlines our proposed exceptions to the RFP.

With more than 90 years of experience, Caterpillar has the in-depth knowledge and experience to undertake this initiative on behalf of the City of Tucson and complete it effectively. We, along with our dealer, Empire Machinery, appreciate the trust you've placed in us through your past purchases and we hope to continue this valued relationship.

We would be pleased to answer any questions you might have regarding our proposal. Thank you for the opportunity to submit these exceptions for your consideration.

Sincerely,

Ann Schreifels
Governmental Sales Manager
Schreifels_ann_m@cat.com
309-266-0471

Caterpillar Inc. Exceptions

SCOPE OF WORK

A. GENERAL REQUIREMENTS

5. **TRAINING:** The Contractor shall provide, at no additional cost, training for each basic unit of equipment purchased. This training shall be adequate to the needs of the typical equipment operator and service technician in order to assure proper operation, utilization and maintenance of the equipment supplied. Any manuals necessary to perform the required training shall be furnished by the Contractor. The trainer shall be factory-trained and thoroughly knowledgeable in equipment operator and service technician functions. Dealer may present the ~~T~~training material ~~shall be presented~~ in a quality suitable for videotaping. Dealer and Contractor~~The City~~ reserves the right to allow or reject videotaping~~e~~ part or all of the training provided at no additional cost to the agency.

6. REPAIRS. The Contractor will be responsible for transport of vehicles to and from his place of business for repairs, at no additional cost to the City, until such time as the City of Tucson places the vehicle in first service. Transport of the vehicle will not be delayed more than one working day from date of notification.

B. EQUIPMENT AND PRODUCT REQUIREMENTS:

3. **PRICING:** Offerors shall confidentially provide a verifiable pricing model that may include, but not be limited to, a discount from a verifiable price index, a reduced net pricing schedule, a hybrid or other supplier specific pricing model. The pricing model shall remain firm and will include all charges that may be incurred in fulfilling requirement(s) for the twelve-month period following contract award. Where applicable, pricing shall be determined by applying Offerors discounts to the prices listed on their manufacturer's price lists, retail price sheets, catalogs or by utilizing the reduced net pricing schedule.

C. SERVICE REQUIREMENTS

1. b. **Maintenance Services:** The ability to provide various maintenance services and options through authorized manufacturer's facilities or dealers. Maintenance services may include scheduled services based upon the manufactures recommended guidelines to include, but not be limited to, daily scheduled services, daily fuel dispensing, major/minor machine cleaning, etc. Maintenance services may also include mobile maintenance.

   For landfill equipment, if the City has purchased the maintenance services from the manufacturer's dealer, the City requires loaner or rental equipment if the machine is down for more than 24 hours. City and Dealer will work together to determine the City's loaner equipment requirements and the cost to the city for loaner equipment. For the City of Tuscon see Empire Cat's response.~~If the equipment is down due to no fault of the City, the loaner shall be provided at no additional cost.~~

INSTRUCTIONS TO OFFERORS

10. EXCEPTIONS TO CONTRACT PROVISIONS: A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his or her designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or his or her designee, the City shall be deemed to have rejected the proposal or offer in part. The parties may agree to negotiate separate terms where the Director or his or her designee has not accepted a modification. ~~the contract provisions contained in the City's Request for Proposal shall prevail.~~

11. PUBLIC RECORD: All proposals submitted in response to this Request for Proposal shall become the property of the City and, subject to Section 12, shall become a matter of public record available for review subsequent to the award notification.

12. CONFIDENTIAL INFORMATION: The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. ~~Price is not confidential and will not be withheld.~~ If the confidential request is denied, such information shall be disclosed as public information, unless the O~~o~~fferor submits a formal written objection.

21. CITY OF TUCSON BUSINESS LICENSE: It is the responsibility of the applicable ~~Contractor~~ Dealer to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at http://www.tucsonaz.gov/etax. For questions contact the City's Business License Section at (520) 7914566 or email at tax-license@tucsonaz.gov.

SPECIAL TERMS AND CONDITIONS

2. SUBCONTRACTORS: As set forth herein, Contractor goes to market through a network of authorized dealers. As such, City and the Department of Procurement hereby agree that certain obligations of Contractor herein shall be fulfilled by such authorized dealers and references herein to "Contractor" or "Offeror" shall be deemed references to "Contractor or Dealer as appropriate" or "Offeror or Dealer as appropriate" unless otherwise specified herein.

City and Contractor acknowledge that Contractor authorized dealers are independent businesses and as such (a) have the right to choose whether or not to accept the terms and conditions contained herein; and (b) have the right to establish their own specific resale prices and other terms and conditions of sale, none of which will be dictated by Contractor.

~~No subcontract shall be made by the contractor with any other party for furnishing any of the services herein contracted for without the advance written approval of the Department of Procurement.~~ All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. Contractor is responsible for contract performance whether or not subcontractors are used.

4. **INSURANCE:** ~~The Contractor agrees to:~~For purposes of this Section 4, all references to "Contractor" shall be deemed to be references to "Dealer" alone.

9. **MODIFICATION OF TERMS:** A Participating Agency who wishes to piggyback on this Contract may present alternate terms to the ~~Contractor~~applicable Dealer as a condition of their intended purchase transaction. If the ~~Contractor~~ Dealer chooses to accept the alternate terms, it shall be as a condition of the Participating Agency's purchase transaction and shall not constitute a modification of this contract.

STANDARD TERMS AND CONDITIONS

20. **INDEMNIFICATION**: To the fullest extent permitted by law, Contractor, ~~its successors, assigns and guarantors,~~ shall pay, defend, indemnify and hold harmless the City of Tucson, its agents, representatives, officers, directors, officials and employees ("Indemnitees") from and against all allegations, demands, proceedings, suits, actions, claims, ~~including claims of patent or copyright infringement,~~ damages, losses, reasonable expenses, including but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, incurred or sustained by an Indemnitee and related to (i) injury to or death of, or property damage sustained by, any natural person who is an Indemnitee, or (ii) claims of patent or copyright infringement, to the extent caused by~~,~~ arising from or out of or resulting from any actions, acts, errors, mistakes or omissions of ~~caused in whole or part by~~ Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor retained by Contractor or anyone directly or indirectly employed by Contractor or such Subcontractor, and except to the extent that the injury to, death of, or property damage sustained by such person is attributable to the negligent acts or omissions or willful misconduct of the City or any of its affiliates or their respective employees, agents or subcontractors. ~~any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractors agrees to waive all rights of subrogation against the City of Tucson, it's agents, representatives, officers directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.~~

29. **PAYMENT:** It is the Dealer's discretion whether to accept credit card payments and under what circumstances it will accept credit card payments. It is noted t~~T~~he City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases and subject to the foregoing, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

38. **SUBCONTRACTS:** This Section 38 is made subject to the terms of Section 2 of the Special Terms and Conditions of this Contract. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

40. **TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by ~~the City~~any party, with or without cause, upon giving thirty (30) days written notice. ~~The City~~Any party, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, which failure the contractor has not commeneed to remedy within thirty days of receipt of notice of such failure, ~~. T~~the City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the reasonable opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the reasonable opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the reasonable opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the reasonable opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will ~~endeavor to~~ notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

ATTACHMENT A

EXHIBIT A

1.2 Marketing, Sales and Administrative Support

Suppliers are required to pay an administrative fee pursuant to Section 10 of Exhibit B, Monthly Reporting & Fees attached to~~of 1.5% of the greater of the Contract Sales under the Master Agreement and Guaranteed Contract Sales under~~ this Request for Proposal. Supplier will be required to execute the National IPA Administration Agreement (refer to Exhibit B).

1.4 Award Basis

The basis of any contract award resulting from this RFP made by Principal Procurement Agency will be the basis of award on a national level through National IPA. If multiple suppliers are awarded by Principal Procurement Agency under the Master Agreement, those same suppliers will be required to extend the Master Agreement to Participating Public Agencies through National IPA. Utilization of the Master Agreement by Participating Public Agencies will be at the discretion of the individual Participating Public Agency. Certain terms of the Master Agreement specifically applicable to the Principal Procurement Agency are subject to modification for each Participating Public Agency as Supplier, such Participating Public Agency and National IPA shall agree. Participating Agencies may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (i.e. invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and woman owned businesses, historically underutilized business, governing law, etc.). Any supplemental agreement developed as a result of the Master Agreement is exclusively between the Participating Agency and ~~the Supplier~~local authorized dealer (Contract Sales are reported to National IPA).

EXHIBIT B

NATIONAL IPA COMPANY ADMINISTRATION AGREEMENT

TERM OF AGREEMENT

6. This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the provisions of paragraphs 3, 4 and 5 hereof and the indemnifications afforded by ~~the Supplier~~Dealer to National IPA herein and in the Master Agreement, to the extent such provision survive the term of the Master Agreement, shall survive the term of this Agreement.

MONTHLY REPORTING & FEES

[redacted]

[redacted]

11. Reports of Contract Sales for Principal Procurement Agency and Participating Public Agencies in each calendar month shall be provided by Supplier to National IPA by the 10th day of the following month. On the 10th day of the month following the end of each quarter Supplier shall pay an ~~Such reports shall be accompanied by an~~ administrative fee ~~payment~~ in the amount indicated on the report as being due. Administrative fee payments are made for each calendar quarter. The administrative fee is~~are~~ to be paid by the Supplier to National IPA via Automated Clearing House (ACH) to the National IPA designated financial institution identified in Exhibit D. Failure to provide a monthly report or quarterly payment of the administrative fees within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Principal Procurement Agency's sole discretion, and/or this Agreement, at National IPA's sole discretion. All administrative fees not paid when due shall bear interest at a rate equal to the lesser of 1 1/2% per month or the maximum rate permitted by law until paid in full.

GENERAL PROVISIONS

15. This Agreement and National IPA's rights and obligations hereunder may be assigned at National IPA's sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform National IPA's obligations hereunder. Supplier may not assign its obligations hereunder without the prior written consent of National IPA; provided, however, National IPA understands the nature of Supplier's distribution network and that certain responsibilities may only be fulfilled by an authorized dealer. ~~.~~

CATERPILLAR®

2015 EXECUTIVE SUMMARY
YEAR IN REVIEW AND SUSTAINABILITY REPORT

90 YEARS

WHAT WE'VE BUILT.

WHAT WE'VE BUILT.

A MESSAGE TO SHAREHOLDERS

Caterpillar faced a tough year in 2015, but we have successfully managed through many economic cycles since our founding in 1925. We remain financially strong and because of the actions we're taking I believe we will, as we have in the past, emerge stronger and always able to compete very effectively around the world. We continue to manage what we can control today while also investing in our future.

What We've Built
Since our first days as a company, Caterpillar has designed and built the world's most powerful, innovative and durable machines and engines. Our customers put them to work on projects that support sustainable progress and improved living standards. We add value for our customers by helping them achieve the lowest owning and operating costs through our sales and service network that reaches every corner of the globe.

Even in this environment, our market share for machines increased for the fifth year in a row. Our product quality continues to improve and is as strong as I've ever seen it. Our safety record improved again in 2015. As we further deploy Lean, we've already seen improvements in warranty and an up-to-95 percent reduction in internal defects per unit, and we anticipate substantial further improvements.

Where We're Headed and What We're Solving
Through Across the Table, we're strengthening our expectations of Cat dealers and the Caterpillar teams that support them. There are about a dozen specific projects underway – everything from expanded e-business to digital technology solutions connecting our machines and engines to our customers.

Digital transformation is a reality for our industry, and we're applying advanced analytics and digital-driven technologies – like Cat® Connect and MineStar™ – to improve worksite efficiency across our equipment and other brands, too. We also offer our customers Job Site Solutions, a true collaborative effort focused on improving job site efficiency. We're focused on using less fuel, increasing productivity and creating a safer work environment.

These are a few examples of how sustainability doesn't ever go out of style or focus at Caterpillar. Another is that our products – like distributed power systems, which improve energy access while emitting fewer greenhouse gases than traditional power grid systems – bring traditional, renewable and alternative energy options to urban, rural and remote communities across the world.

In 2015, we joined an effort to emphasize the vital role that restoration of natural infrastructure – forest, prairies, farmlands, wetlands and coastal landscapes – plays in sustainable global development. Additionally, we have been remanufacturing our products for more than 40 years, returning them to same-as-when-new condition, and conserving natural resources.

Caterpillar also supports the Caterpillar Foundation, which has invested more than $600 million since 1952 to transform lives and alleviate the root causes of poverty.

We were also honored to receive the "Vision for America" award from Keep America Beautiful in 2015 – a recognition for our sustainability commitment and significant progress toward aggressive sustainability goals.

Neither our accomplishments nor our goals are small or inconsequential. Given that we are Caterpillar, that shouldn't surprise anyone.

Doug Oberhelman
Chairman and CEO

WHERE WE STARTED.

The 21st century world you see today has been built with the help of Caterpillar machines and solutions. We've spent the past 90 years creating, building, problem-solving, innovating, testing, servicing and improving. In the process, we've built a global leader.

1925 — First year sales are **$13 million** for a product line of **5 tractors**.

1925 — **Holt Manufacturing Company** and the **C.L. Best Tractor Company** merge to form **Caterpillar**, reflecting the movement of the company's line of track-type tractors.

1929 — Our strong legacy of innovation begins with the introduction of our **first diesel tractor**.

About two months after "Black Tuesday," which some say signaled the start of the Great Depression, **Caterpillar Tractor Company stock** becomes available for public trading (NYSE: CAT).

1931 — Cat® machines help start the construction of more than **70,000 miles** of U.S. highways.

1931 — Our manufacturing headquarters move from **California to Illinois** and we change the standard paint color of our machines from gray to yellow.

1944 — We form our first overseas subsidiary – **Caterpillar Tractor Co. Ltd.** in England – the start of building plants outside the United States to be closer to customers.

1948 — Caterpillar machines go to work on **India's Bhakra Dam**.

1950 — Caterpillar engines supply power for **Apollo moon mission**.

1969 — Setting forth the company's beliefs to guide the organization in all aspects of its worldwide business activities, Caterpillar publishes a Worldwide **Code of Conduct**. Since then, the Code has been updated five times to reflect the company's culture and the ever-changing business environment.

1974 — **Business units reorganize** to become more accountable for results.

1986 — A **$1.8 billion** facility modernization program streamlines manufacturing processes and enhances profitability.

1990 — Cat® engines with **ACERT™ Technology** are unveiled to dramatically reduced harmful pollutants and waste emissions.

1992 — Caterpillar introduces SoLoNox Technology for gas turbines.

2001 — **Acquisitions** of Progress Rail, Electro-Motive Diesel, Johan Walter Berg AB, Bucyrus, MWM and Shandong SEM Machinery Co., Ltd.

2006 TO 2013 — Caterpillar introduces the **Cat® D7E** in 2008 with a first-of-its-kind electric drive system.

WHAT WE'RE SOLVING.

WHERE WE'RE HEADED.

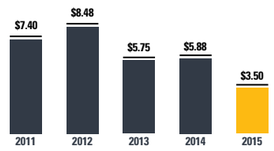
AT-A-GLANCE

FINANCIAL PERFORMANCE

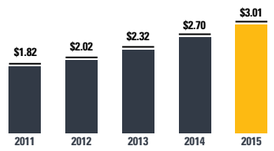
PRODUCT LINE

- Construction
- Mining Equipment
- Diesel & Natural Gas Engines
- Industrial Gas Turbines
- Diesel-Electric Locomotives

PROFIT PER SHARE
(DILUTED)



DIVIDENDS DECLARED
(PER SHARE)



END MARKETS INCLUDE:

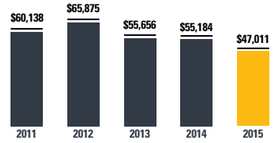
Building Construction
Roads and Highway Construction
Infrastructure Projects
Mining
Quarrying
Oil & Gas
Power Generation
Marine
Rail
Industrial

3Million+
Products at Work Around the World

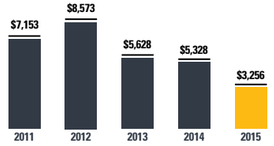
105,700
Employees

59%
Sales and Revenues Outside the United States

CONSOLIDATED SALES AND REVENUES
($ IN MILLIONS)

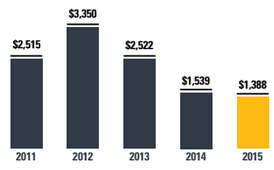


OPERATING PROFIT
($ IN MILLIONS)

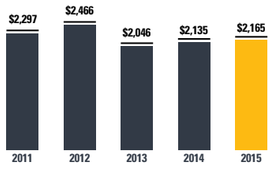


CONSOLIDATED SALES AND REVENUES BY SEGMENT
($ IN MILLIONS)

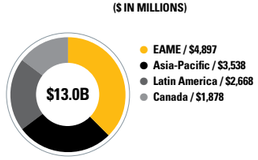
CAPITAL EXPENDITURES
(EXCLUDES EQUIPMENT LEASED TO OTHERS)
($ IN MILLIONS)



RESEARCH AND DEVELOPMENT
($ IN MILLIONS)



2015 EXPORTS FROM U.S. BY REGION
($ IN MILLIONS)



AT-A-GLANCE

2020 SUSTAINABILITY GOALS

Caterpillar has set aspirational, long-term goals for its operations and product stewardship. We believe these standards affirm our determination to lead our industry to a more sustainable future.

2020 GOALS FOR OPERATIONS

SAFETY
Reduce our recordable workplace injury rate to 0.6 and lost-time case rate due to injury to 0.15.

WATER
Reduce water consumption intensity by 50 percent from 2006.

ENERGY
Reduce energy intensity by 50 percent from 2006.

BYPRODUCT MATERIALS
Reduce byproduct materials intensity by 50 percent from 2006.

ENERGY
Use alternative/renewable sources to meet 20 percent of our energy needs.

SUSTAINABLE CONSTRUCTION
Design all new facility construction to meet Leadership in Energy and Environmental Design (LEED) or comparable green building criteria.

GHG EMISSIONS
Reduce greenhouse gas emissions intensity by 50 percent from 2006.

PRODUCT STEWARDSHIP

SAFETY
Provide leadership in the safety of people in, on and around our products.

PRODUCTS, SERVICES AND SOLUTIONS
Leverage technology and innovation to improve sustainability of our products, services and solutions for our customers.

SYSTEMS OPTIMIZATION
Increase managed fleet hours by 100 percent from 2013.

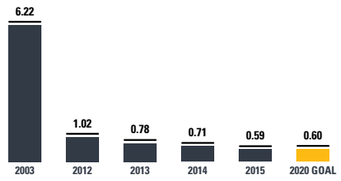
REMAN AND REBUILD
Increase remanufactured and rebuild business sales by 20 percent from 2013.

AT-A-GLANCE

SUSTAINABILITY GOALS & PROGRESS

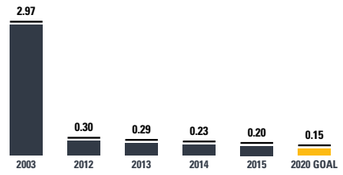
RECORDABLE INJURY FREQUENCY (RIF)

Recordable injuries per 200,000 hours worked



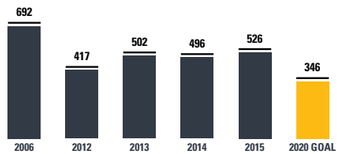
LOST-TIME CASE FREQUENCY RATE (LTCFR)

Work-related injuries resulting in lost time per 200,000 hours worked



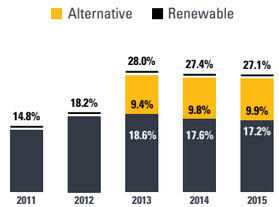
ENERGY INTENSITY

Absolute gigajoules energy use/million dollars of revenue



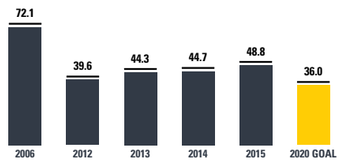
ALTERNATIVE/RENEWABLE ENERGY[1]

Sum of alternative and renewable electrical energy use/total electrical use x 100



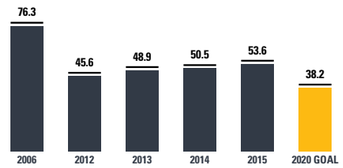
GHG EMISSIONS INTENSITY

Absolute metric tons of CO2e/million dollars of revenue



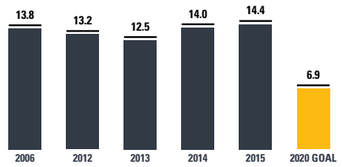
WATER CONSUMPTION INTENSITY[2,3]

Absolute thousand gallons of water/million dollars of revenue



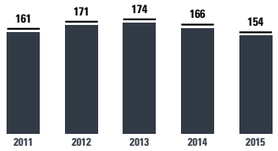
BYPRODUCT MATERIALS INTENSITY

Absolute metric tons of byproduct materials/million dollars of revenue



REMAN END-OF-LIFE "TAKE-BACK" BY WEIGHT[4]

Millions of pounds of end-of-life material received



1 Total includes purchased and on-site generated alternative and renewable energy, as well as calculating the percentage of renewable energy from grid-purchased electricity using data obtained from the International Energy Agency.
2 Data prior to 2015 has been restated due to data updates realized from improved accuracy.
3 Water consumption intensity does not include non-contact cooling water from foundry operations.
4 Data does not include Progress Rail, Electro-Motive or Solar Turbines.

WHERE WE'RE HEADED.

We're investing in the future and, as we always have, facing challenges head on and delivering the products and services that will keep Caterpillar the industry leader tomorrow, as it is today.

WHERE WE'RE HEADED

DATA AND INNOVATION

For 90 years, Caterpillar has delivered breakthrough innovation inside our machines and engines. Today, that innovation is increasingly happening outside the machine. We're going "beyond the yellow iron," harnessing the power of big data to offer our customers insights that decrease operating costs, increase uptime and maximize profitability. In the process, we're shaping a new era for Caterpillar in which we not only manufacture machines and engines, but also deliver value-added solutions that take our customer relationships to an entirely new level.

SIMULATION LEADS TO PRODUCT DESIGN OPTIMIZATION AND EFFICIENCY

The increased use of simulation in the development of everything from power systems to machine structures has truly allowed Caterpillar to improve overall product development efficiency, sharpening product quality and reducing time to market. Simulation reduces or eliminates the need for prototypes to be used in the design phase of development.

The large wheel loader team leverages the use of simulation in each new product development program. In fact, the first full phase of the Cat 994K product design, which is the largest wheel loader in Caterpillar history, was done virtually, and simulation touched every area of this new centerline machine at some point along the way.

CATERPILLAR®

CAT® COMMAND STEERS MINING IN A NEW DIRECTION

A fleet of gigantic Cat® 793 haul trucks rumbles along the dusty, red-sand haul roads of the Solomon mine in a vast, arid region of Western Australia. Working continuously, 24/7, the trucks maneuver through mine site traffic, back up into loading points and navigate to dump sites – all with minimal human intervention.

Iron is the reason Fortescue Metals Group (Fortescue) is there. At full operation, the new Solomon mine is projected to deliver 70 million tonnes of ore annually. It's a big job – and one that demands safety and maximized productivity. That's where Caterpillar's deep understanding of the mining industry and our customers' needs put us in the ideal position to offer semi-autonomous and autonomous solutions such as Cat® Command for Hauling. The realization of a longtime dream of the mining industry, Cat Command has improved safety and productivity.

Trucks operating with Cat Command for Hauling use sophisticated onboard intelligence and advanced guidance technology, so a small number of people can run the whole project and centralize the control. For job sites such as underground mines, autonomous solutions are fast becoming a safety necessity.

Since its inception, Cat Command has gone through a progression of offerings. Semi-autonomous solutions such as Command for Dozing, for instance, allow one operator to oversee up to three semi-autonomous Cat® D11s – Caterpillar's largest dozers – by remote control. There's even an option where the operator has no line of sight to the dozers and uses cameras for feedback.

"Every mine takes a different journey to autonomy," explains Sean McGinnis, product development manager. "But that path always leads to a safer, more productive mine site. Cat Command reduces variations in the way the machine is operating, ensuring that it operates the same way, every time. It's like having the mine's best operator at the controls, but he or she is located safely away from any potential hazards. It's the best of both worlds: increased productivity combined with increased safety."

Today, the Cat Command concept continues to meet customer needs in ways that we couldn't anticipate five years ago. That's what makes innovation exciting and what energizes us to keep finding solutions that make a real difference.

INVESTING IN R&D

WHERE WE'RE HEADED

CUSTOMER SUPPORT

Our business strategy is a simple one: make our customers more successful. We work with our dealer network every day around the world to ensure that success – at construction sites and mining quarries and power plants. Our goal is to speed the delivery of customer support by being an agile organization positioned to respond efficiently and effectively to customer needs. Because when our customers win, we win.

POWER TO PRESERVE THE PAST

The beautiful grounds and stunning architecture of Thomas Jefferson's historic residence, Monticello, function today as an important U.S. landmark, world-class museum and academic think tank, attracting more than 400,000 annual visitors.

Located outside of Charlottesville, Virginia, Monticello also houses one of the country's oldest and largest collections of historic documents. To help preserve and protect those irreplaceable collections for future generations, Caterpillar donated a 500kW Cat® C15 generator set, with local Cat dealer Carter Machinery providing the technical support, commissioning and testing. This followed a previous donation of a 350 kW Cat® C15 diesel generator set that provides standby power for Monticello's Robert H. Smith International Center for Jefferson Studies.

The donations were part of the estate's "Mountaintop Project," a multiyear effort to authentically restore the house and grounds to their appearance during Jefferson's retirement. We are proud to see these valuable assets entrusted to the quality and reliability of Cat® products.

CATERPILLAR®

HOMESTEAD DAIRY TURNS PROBLEM INTO PROFIT

Based in Plymouth, Indiana, Homestead Dairy began as a modest family farm with only 110 cows. In 1979, brothers Floyd and Dan Houin purchased the farm from their dad and turned it into the massive dairy operation that it is today. The dairy now hosts 1,800 milking cows and 300 dry cows, while an additional 1,700 cows come in from three nearby facilities for milking. However, more cows means more manure, and the odor directly impacted nearby residents.

The Houins saw the possibility to turn a problem into a profit. They decided to build a biomass waste-to-energy facility that could convert the manure into electric power. Floyd knew that Homestead Dairy's equipment would need to run 24/7 with minimal downtime, so dependability was the deciding factor in choosing Caterpillar to supply the power. In researching the project, Floyd Houin toured a farm with a renewable energy facility that ran at peak efficiency, even with their older-model Cat® generator sets. That's when the Houins knew they'd trust their project to Caterpillar.

Homestead Dairy partnered with local Cat® dealer, Michigan Cat, to customize a power generation system for Homestead Green Energy, the energy-producing business within the dairy – two Cat® G3512A generator sets and ancillary equipment.

In researching the project, Floyd Houin toured a farm with a renewable energy facility that ran at peak efficiency, even with their older-model Cat® generator sets. That's when the Houins knew they'd trust their project to Caterpillar.

Homestead Green Energy has been in constant operation since October 2013, and the Cat® generator sets are essential to the waste-to-energy process. The manure is collected in pools and piped 1,700 feet to a pair of mixing tanks that empty into two anaerobic digesters. Once inside the tanks, the waste is heated and treated with microbes that produce methane gas, which is used to fuel the gas generators. Generator exhaust heat and jacket water heat are used to warm up the digesters as part of the fermentation process.

Beyond odor reduction and the financial return from producing electricity, Homestead Dairy uses the dewatered solids from the digesters as clean bedding for the cows. Additionally, the liquid nutrient byproduct is held in lagoons and used to fertilize the farm fields.

"By turning this abundant substance into an income stream, we've made the dairy more profitable," said Ryan Rogers, plant operator for Homestead Green Energy. "It also helps increase nutrient value, which is great for the environment. The crops absorb the manure better, and odor reduction for the community is a huge benefit."

The Homestead Green Energy installation demonstrates the economic viability of smaller-scale, waste-to-energy operations to create wins for business, the community and the environment.

WHERE WE'RE HEADED

EFFICIENCY

In an insistent and urgent world, winning organizations make the most of every minute, resource and opportunity. Caterpillar is going after that win by leveraging Lean, Engineered Value Chains and building strong Foundational Capabilities throughout our value chain to fulfill our Customer Service Promise, maximize Operating Profit After Capital Charge (OPACC) and create a competitive advantage. We're becoming a more disciplined, less complex organization that is committed to finding smarter and faster ways to work across the enterprise. This translates into a powerful competitive advantage that helps Caterpillar improve market position and sustain long-term success.

LEAN BENEFITS

CATERPILLAR®

Stabilizing the Business

Enhancing Product Quality

Improving Velocity

Driving Value for Our Shareholders

RESOURCE INDUSTRIES
OFF-HIGHWAY TRUCK
45%
Reduction in field assembly time

ENERGY & TRANSPORTATION
MID-SIZE ENGINES
18%
Increase in throughput

CONSTRUCTION INDUSTRIES
MOTOR GRADER
65%
Inventory reduction (days on hand)

Since 2013, we have been committed to Lean to drive process and quality improvements at Caterpillar. Lean challenges all employees to get closer to the customer so they can deliver products and services based on the customers' true expectations. Our Lean journey goes beyond manufacturing to include all functional areas that execute business processes on a daily basis, including engineering, marketing, purchasing, accounting and human resources.

CATERPILLAR®

A GLOBAL SUPPLY NETWORK THAT DELIVERS UNDER PRESSURE

Nearly 40 percent of U.S. trade to and from Asia passes through West Coast ports in California. Keeping the flow of goods through these ports moving swiftly and efficiently is a priority for logistics and procurement networks across countless companies, including Caterpillar.

When a three-month labor dispute at one of these ports resulted in significant terminal congestion, the expertise of Caterpillar's logistics team translated into millions of dollars in savings, as well as ensuring that our supply flow remained resilient.

When business operations eventually returned to normal, many companies were left dealing with severe financial impact. While Caterpillar experienced added costs and some slowing in our materials flow, these were a fraction of the impact on other companies. That's how we know our Global Supply Network can deliver under pressure – not merely reacting to fluctuations in logistics, but truly taking charge of and managing our supply network.

Our staying power throughout the slowdown was due, in very large part, to the collaboration and flexibility of our Global Supply Network. Using a winning combination of procurement and logistics data and innovative thinking, a clearer inventory picture emerged to help streamline and divert shipments.

"We were able to see not only the best ports, but also the best terminals in those ports," explained Global Supply Network Director of Logistics Scott Shepherd, "so we could react faster and accurately reroute shipments. This allowed us to move material more quickly, while limiting added costs and overall supply disruption."

AN INDUSTRY LEADER WITH WORLD CLASS RESULTS

Caterpillar continues to improve upon historical best safety performance, and we are an industry leader with world-class results. Beginning in 2003, we implemented an enterprise-wide initiative to focus on safety called Vision Zero. Today, we're proud that our Recordable Injury Frequency has improved 91%, but there is more work to do. Breakthrough safety performance is continuing with our Lean Transformation by focusing on standard work, which means more folks are going safely home, every day.

WHERE WE'RE HEADED

PEOPLE

Best quality. Best reliability. Best endurance. The same attributes that define our products define our people – more than 105,000 of them around the world. For 90 years, Caterpillar people have been building the machines that have built our world. We're confident that Caterpillar's long-term future is secure thanks to our global team's drive to perform at a superior level. It's a commitment that extends beyond the workplace where Caterpillar employees contribute their time and talents to making the world around us a better one.

REAL CAT FOLKS

To showcase the rich diversity, passion for life and strong work ethic present in our Caterpillar family, we began the Real Cat Folks project. Inspired by Humans of New York, the project highlights that Caterpillar employees are real people – with real families, real pasts, real dreams and real stories. Visit caterpillar.com/RealCatFolks to see dozens of published profiles, and check back weekly for updates.

"I grew up on a cotton field on the coast and came to Suzhou for school. Suzhou is a beautiful city with the combination of modern industry and ancient history. I like to spend my spare time playing soccer and climbing mountains in the neighborhood. I've always wanted to learn to play guitar and want to play for my son in the future. He's 14 months old, and my biggest wish is to watch him grow up happily."

— YOUXIANG ZHANG, CHINA

"Caterpillar gave me a chance after being unemployed for five years. I never thought they'd hire me because of my age. When my youngest was having a rough time, I told her to fill out an application. The next thing I knew, she was hired on full time after three months of being an agency worker. Today she's a team lead, going strong and learning as much as she can. I'm very proud of her."

— HARRY, UNITED STATES

CATERPILLAR®

MARKING MILESTONES AT BOTH ENDS OF A CATERPILLAR CAREER

In 2015, two Caterpillar employees marked career milestones in two very different journeys. Their stories illustrate the satisfaction that comes at the end of a long career and the exhilaration that comes from being given the first chance to give your all.

In early 2015, Ed Flesburg retired after 60 satisfying years of service with Caterpillar. As a 6 Sigma Black Belt within the Global Supply Network Division (GSND), and over the course of his notable career, Ed achieved much success and delivered many outstanding results for the company.

Ed began his career in 1955, as a chip wheeler in East Peoria, Illinois. After returning from deployment to Korea, he spent the next 51 years in many different roles with the company, from janitor to drafting, designing and engineering.

Throughout his tenure, Ed achieved four company patents to his name, developed 14 major design changes, resolved 11 major design problems and generated more than $55 million in cost reductions. In addition, he pioneered the development of the heat transfer coolant category, where his experience and expertise was priceless.

Ed's manager, James Dryden, sums up Ed's outstanding tenure: "Famous basketball coach John Wooden once said 'Who can ask more of a man than giving all within his span? Giving all, it seems to me, is not so far from victory.' I cannot think of a better quote to describe Ed's work ethic and outstanding accomplishments to make Caterpillar the successful company it is today."

As Ed was accepting well wishes for the future from his grateful team, thousands of miles away 19-year-old Farooq Kahn was looking forward to the future for the first time in a long time. Farooq is training as an industrial mechanic at Caterpillar Mining in Lünen, Germany. His arrival at Caterpillar marks a milestone in a remarkable journey.

Farooq escaped from his home country of Afghanistan when he was only 15 years old, leaving his parents and siblings and all he knew behind him. It took him five months to arrive in Germany. He spoke not one word of German, had a very dangerous escape behind him and was completely on his own.

After his graduation from German elementary school, Farooq sent over 70 applications to companies, but only Caterpillar in Lünen was willing to give him a chance. At the time his German language skills were limited, and, as a refugee, he only had a temporary residence permit.

According to a study conducted in Germany, only 15 percent of companies are ready to hire young people with foreign roots. Caterpillar in Lünen has been a part of this small group of companies for years, but Farooq, now successfully integrated into the company, was the first refugee hired.

Caterpillar employees come to us in many different ways, with many different stories. But we are humbled by what they have in common: the loyalty and dedication to put their talents and enthusiasm to work to help us build the world.

"We strongly believe it to be part of our social responsibility to give young people like Farooq the possibility to enjoy a good education."

Farooq's aim is to successfully complete his industrial mechanic training and then possibly continue his studies. His instructor is very enthusiastic about his curiosity, ambition and commitment. "All I want is to build a new life for me here," said Farooq.

Caterpillar employees come to us in many different ways, with many different stories. But we are humbled by what they have in common: the loyalty and dedication to put their talents and enthusiasm to work to help us build the world.

WHAT WE'RE SOLVING.

Caterpillar continues to help make sustainable progress possible by offering solutions to ongoing challenges in our world today.

SAFE WORKPLACE SOLUTION

REVITALIZING A CULTURE OF SAFETY

As we work to reduce our enterprise Recordable Injury Frequency (RIF), there are countless large and small steps we have taken, as demonstrated by our progress to date. But even the most dedicated facilities sometimes reach a "safety plateau," where further improvements become more difficult to achieve. When our Mapleton, Illinois, Cast Metals Organization facility found their safety numbers plateauing at the end of 2012, they deployed facility-wide initiatives to break through to the next level of safety excellence.

The safety team, aided by the commitment of each of the nearly 600 employees on site and the Caterpillar Safety Services Zero Incident Performance (ZIP™) Process, undertook a cultural shift in how they address safety, thinking of the program as 'creating the presence of safety' rather than 'the absence of injuries.' Part of this shift involved making the concept of safety personal. An acronym like RIF is not easy to relate to daily work, but seeing and discussing how each injury affects real people in their work and personal life truly drives home the importance of safety. The safety team encouraged this viewpoint by dedicating all-employee meetings to recent on-site injuries and dialogues about how to make safety proactive instead of reactive. In 2015, Mapleton reduced its injury rate by 18.3 percent over the previous year, and injury rates have fallen by 66.3 percent since 2010.

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Many of the safety improvements that Mapleton has implemented to break through its safety plateau have been generated by the employees themselves using a "Green Card" program to document and communicate when employees identify, and proactively fix, a safety risk. In 2015, Mapleton employees submitted nearly 5,000 Green Cards representing potential hazards or conditions that they worked on independently or with management to address, and believed could be improved. The facility also uses a "Star Green Card" system to allow department heads to further recognize employees who have gone above and beyond to fix a potential safety risk. The facility has implemented a full-time Safety Champion position for each department, empowering employees to apply their specific knowledge of shop floor and safety practices to work with department heads to enact health and safety initiatives.

Because safety communication has been fundamental to the success of Mapleton's efforts, the safety team created a safety improvement video, which is screened throughout the facility and updated each month to reflect the process and facility safety improvements that have been implemented. Often these videos highlight innovative solutions developed and implemented by the employees. Facility Manager Gary Bevilacqua attributes the success of the videos to the fact that it is a communication method that allows a different type of dialogue. "People are starting to talk about safety more openly and listening to the messages on the videos," he said. "It's generating awareness and more individuals are coming forward with new ideas and aren't afraid to discuss them with their teams."

CATERPILLAR®

WHAT WE'RE SOLVING

RENEWABLE ENERGY SOLUTION

BRINGING RENEWABLE ENERGY TO ANYWHERE IN THE WORLD

Renewable energy technologies are showing great promise to change how energy is produced around the globe, while addressing basic human needs. In 2015, Caterpillar launched a number of initiatives that will provide reliable, cost-effective and sustainable energy wherever it is needed.

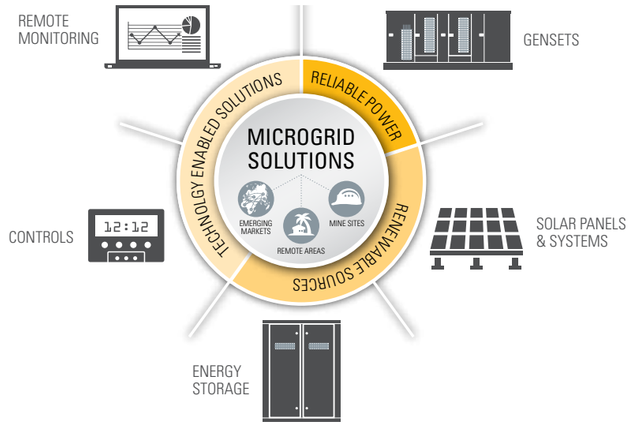
For example, microgrid technologies that couple renewable energy generation with traditional generators and energy storage systems can be deployed to places where the grid is weak, or does not reach. In 2015, Caterpillar entered a strategic alliance with solar industry leader First Solar to develop and distribute Cat branded photovoltaic modules for incorporation into microgrid systems that can be utilized anywhere from remote villages to mining operations. Caterpillar will distribute this innovative technology through our global network of dealers, providing value to our customers by integrating solar energy systems with Caterpillar's trusted expertise in distributed power generation technologies.

Caterpillar is also leveraging the advanced thin film solar panel technology for our traditional commercial and industrial customers' energy needs in more developed markets such as the United States and China. The thin film solar panel technology has higher energy capture characteristics than traditional solar panels, yielding increased annual energy production for our customers. Integration of these products with traditional standby generator sets allows customers to leverage the benefits of renewable energy even if the grid goes down, providing an even higher level of energy independence.

Another important technology that is rapidly progressing is energy storage systems, which allow customers to capture surplus renewable energy and store it for later use. Caterpillar, leveraging our bi-directional inverter technology developed for mining trucks and hybrid tractors, offers a full range of energy storage technologies, ranging from ultracapacitors for short duration storage to long duration metal- air energy storage products. Recognizing the benefit that energy storage technology can offer our customers, in 2015 Caterpillar invested in Fluidic Energy, the makers of metal-air energy storage technologies. We chose Fluidic Energy for this endeavor because the company's technology offers potentially significant advantages in terms of energy storage cost, depth of discharge, cycle life and safety over some traditional energy storage products.

Leading by example, Caterpillar is first deploying world-class microgrid technologies at some of its own facilities. Many Caterpillar operations resemble the commercial/industrial operations of our customers, so microgrid installations at Caterpillar facilities provide a hands-on educational and training experience for customers and dealers while simultaneously providing cost and emission reductions for the company. A prime example is the Caterpillar Tucson Proving Ground facility located in Arizona. Caterpillar performs validation testing of its mining equipment at this site, which comprises an office building, shop areas and large open-air test areas. Existing Cat® C15 diesel generator sets operate continuously to provide approximately 400kW of electricity to the site, consuming approximately 250,000 gallons of diesel fuel per year. Extending the local utility grid to this remote location is cost-prohibitive, but microgrid technology is now a cost-effective complement to diesel generators alone. We are installing 500kW of solar panels, 500kW of energy storage and a microgrid controller to seamlessly integrate these sources with the existing diesel generators. The system will carry the site load during daylight hours, enabling the diesel generators to reduce power output and shut down. Fuel consumption and exhaust emissions are expected to be reduced by 33 percent, and generator maintenance is expected to be reduced by 25 percent, with the resulting cost reductions providing an attractive return on the investment in the microgrid. Real-time performance of the system will be monitored remotely and will be available for viewing online by select Cat® dealers.

Moving forward, we intend to deploy similar microgrid systems, solar panels and energy storage systems to customers throughout the world – whether in remote villages, mining sites, islands, military installations, telecommunications facilities, or commercial/industrial facilities. By expanding Caterpillar's broad power generation portfolio and solutions, we are reducing customer costs and site emissions, while expanding access to electricity to those in the greatest need. Our goal is simple – to provide our customers and the communities where they work and live a brighter future no matter where they are in the world.



WHAT WE'RE SOLVING

MATERIAL RECOVERY SOLUTION

MATERIAL RECOVERY

Caterpillar encourages circular economy principles through our remanufacturing and rebuild businesses. This starts with durable products, many designed to be rebuilt multiple times. Through our remanufacturing and rebuild programs, components and machines are overhauled, rather than simply repaired or replaced. Reuse of parts, still within factory specifications, reduces waste and minimizes the need for additional raw materials necessary to produce new parts. This system is where Caterpillar is making some of its greatest contributions to sustainable development – keeping non-renewable resources in circulation for multiple life cycles.

For more than 40 years, Caterpillar's remanufactured products have provided same-as-when-new performance, reliability and warranty at fraction-of-new costs, as well as availability that gives customers more options at repair and overhaul time.

In addition to giving our customers lower operations and maintenance costs, using remanufactured equipment gives Cat® dealers a competitive advantage.

An excellent example of how our reman programs deliver value to customers can be found in the island nation of Dominica. There, almost all energy is produced using a combination of gas, diesel and fuel-oil generators. Rimco, the Cat® dealer in the Eastern Caribbean, has put a priority on offering remanufactured parts and components to the local electricity companies and customers. Remanufactured parts are more affordable, helping to manage operating costs, and are more readily available on the market, allowing faster turnaround time in the event of emergency repairs.

For instance, a local energy company uses 11 Cat® generators – primarily Cat® 3516, Cat® 3608 and Cat® 3612 engines – to supply the majority of the island's electricity. During 2015, two of the main generators needed emergency replacement parts, reducing the backup power available and increasing the risk to a disruption in energy supply to the island. Rimco provided remanufactured parts to the energy company, ensuring they could keep the power flowing without interruption.

In addition to giving our customers lower operations and maintenance costs, using remanufactured equipment gives Cat® dealers like Rimco a competitive advantage and has helped the 35-year-old company meet the needs of its customers across the Eastern Caribbean efficiently and affordably.

WHAT WE'RE SOLVING

SANITATION IMPROVEMENT SOLUTION

SUPPORTING GLOBAL SANITATION IMPROVEMENTS

When we seek to meet basic human needs around the world, particularly those of women and girls, sanitation is a high-impact area where we can focus our efforts. In 2015, the Caterpillar Foundation continued our support of The Global Poverty Project (GPP) with an investment to support universal access to sanitation. The grant will help GPP advocate for policies around the world that enable entrepreneurship, especially for women, by removing barriers caused by poor and inequitable access to sanitation – such as places to hand wash or use the toilet – and lack of access to basic education. GPP estimates universal sanitation would improve the entrepreneurial potential of women by freeing up more than 200 million hours for women and girls each day, enabling them to achieve an education, have time for paid employment or to run their own small enterprises. Combined, these measures would return an estimated $220 billion to the global economy annually.

GPP estimates universal sanitation would improve the entrepreneurial potential of women by freeing up more than 200 million hours for women and girls each day, enabling them to achieve an education, have time for paid employment or to run their own small enterprises.

In 2015, the United Nations adopted the Sustainable Development Goals (The Global Goals), a series of 17 goals with 169 targets to be achieved by 2030. Included in these goals were two key aspects of our policy partnership with GPP: the recognition of the need to ensure access to adequate sanitation and hygiene for all, and a commitment to end open defecation, especially for women, girls and those in vulnerable situations. GPP will continue to work on other aspects of our sanitation-policy partnership, including securing a $10 million-per-year increase in Water, Sanitation and Hygiene (WASH) aid from the United States government, and urging four new governments or companies to allocate new, additional financial resources to sanitation efforts.

WHAT WE'RE SOLVING

NATURAL INFRASTRUCTURE SOLUTION

SHINING A LIGHT ON THE CLIMATE BENEFITS OF NATURAL INFRASTRUCTURE

Cat® products are used to support infrastructure projects around the world, including natural infrastructure projects such as the restoration of forests, wetlands and other landscapes. We believe that Caterpillar's expertise across industries puts us in a prime position to drive the global discussion on the importance of natural infrastructure and its restoration. Not only is sustainability one of our Core Values, but over our 90-year history we have also built relationships across a wide range of infrastructure businesses that will be critical to restoring the world's natural landscapes. Already, Caterpillar has supported a number of major natural infrastructure restoration projects, including Everglades restoration projects in Florida, cleanup work in the wake of Hurricanes Sandy and Katrina and remediating Superfund sites across the United States.

Around the world, governments, industries and individuals are talking about climate change, the threats it poses to our livelihoods and the best ways to address it. The majority of the conversation has focused on the role energy plays in our global carbon footprint. Natural infrastructure – forests, prairies, agricultural lands, coastal landscapes, wetlands and other landscapes – also plays a vital role in managing carbon and supporting global sustainability. In 2015, to complement our existing initiatives focused on reduction of greenhouse gases, Caterpillar spearheaded an effort to raise awareness of the benefits of natural infrastructure.

Caterpillar has supported a number of major natural infrastructure restoration projects, including Everglades restoration projects in Florida, cleanup work in the wake of Hurricanes Sandy and Katrina and remediating Superfund sites across the United States.

Natural infrastructure sequesters billions of tons of carbon for productive use in plants and soils. Scientists say that more carbon resides in soil than in the atmosphere and all plant life combined; there are 2,500 billion tons of carbon in soil, compared with 800 billion tons in the atmosphere and 560 billion tons in plant and animal life. The food, fiber and lumber produced from natural infrastructure provide our nourishment and much of the raw materials for clothing and housing. With the earth's population expected to grow from 7 billion to more than 9 billion in the next few decades, ensuring the health and productivity of our natural infrastructure will be integral to meet the growing need for food and other basic human needs.

Land and Water Resources for Food and Agriculture (SOLAW), found 25 percent of the world's lands are now considered "highly degraded" as a result of poor management practices. This means that an area roughly the size of North America may suffer from deforestation, desertification, severe erosion and wetland contamination. As a result, communities that depend on these lands may experience less productive farmland, poorer water quality and lower storm resilience. According to Ohio State University's Carbon Management and Sequestration Center, restoring soils of degraded and desertified ecosystems has the potential to provide an additional 1 billion to 3 billion tons of in-soil carbon storage capacity annually, equivalent to approximately 3.5 billion to 11 billion tons of CO_2 emissions.

In November 2015, Caterpillar hosted the first major national summit in the United States of diverse stakeholders who have a part to play in natural infrastructure restoration. The summit brought together leaders from engineering, construction, finance, governments, academia and nongovernmental organizations to establish a coordinated effort across these industries to develop and deploy sustainable development solutions. Participants delved into the scientific and business cases for natural infrastructure restoration and brainstormed policies, business models and financing solutions needed to expand the world's natural infrastructure restoration efforts.

Following the summit, Caterpillar has published a comprehensive white paper detailing the summit discussions. The paper highlights the recommendations that businesses and governments may consider to increase the effectiveness of efforts to restore natural infrastructure and keep pace with our need for the critical services, including carbon sequestration and resources, that natural ecosystems provide. Through the use of our products for natural infrastructure restoration projects and continuing to increase awareness, this is another way that Caterpillar can continue to build a more sustainable world.

WHAT WE'RE SOLVING

SUSTAINABILITY VISION, MISSION, STRATEGY & PRINCIPLES

VISION

Our vision is a world in which all people's basic needs – such as shelter, clean water, sanitation, food and reliable power – are fulfilled in a sustainable way and to be a company that improves the quality of the environment and the communities where we live and work.

MISSION

Our mission is to enable economic growth through infrastructure and energy development, and to provide solutions that support communities and protect the planet.

STRATEGY

Our strategy is to provide work environments, products, services and solutions that make safe, productive and efficient use of resources as we strive to achieve our vision. We apply innovation and technology to improve the sustainability performance of Caterpillar's products, services, solutions and operations. We believe sustainable progress is made possible by developing better systems that maximize life cycle benefits, while also minimizing the economic, social and environmental costs of ownership, as reflected in our sustainability principles. We will execute our strategy by working to meet our aspirational sustainability goals.

SUSTAINABILITY PRINCIPLES

Sustainability is part of who we are and what we do every single day. We recognize that progress involves a balance of environmental stewardship, social responsibility and economic growth.

Caterpillar Sustainability Principles drive our commitment to make sustainable progress possible.

Prevent Waste (Improve Safety, Efficiency and Productivity):

By increasing the safety, efficiency and productivity of processes and products, we reduce cost and minimize the use of materials, energy, water and land. We provide a safe work environment and the tools and training employees need to work safely. We provide customers with products, services and solutions that improve the sustainability of their operations.

Improve Quality (Team, Community, Environment and Operations):

We focus on improving quality for our company, customers, communities, environment and the quality of life for our employees. We use Lean and 6 Sigma to improve our operations and products. Our employees and their families experience a better quality of life when the quality of our company, communities and the environment is maintained. We attract and develop the best teams.

Develop Better Systems (Innovate):

We leverage innovation and technology to maximize efficiency and productivity. We remanufacture, rebuild and recycle to conserve resources for multiple life cycles. We develop products that contribute to communities through infrastructure development and energy access. We develop better systems throughout the value chain, "engineering the whole chain, not just the links," in order to maximize life cycle benefits.

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*Appointed in 2015
**Retired in 2015

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LEGAL STATEMENTS

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Forward-Looking Statements Certain statements in this 2015 Sustainability Report relate to future events and expectations and are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Words such as "believe," "estimate," "will be," "will," "would," "expect," "anticipate," "plan," "project," "intend," "could," "should" or other similar words or expressions often identify forward-looking statements. All statements other than statements of historical fact are forward-looking statements, including, without limitation, statements regarding our outlook, projections, forecasts or trend descriptions. These statements do not guarantee future performance, and we do not undertake to update our forward-looking statements.

Caterpillar's actual results may differ materially from those described or implied in our forward-looking statements based on a number of factors, including, but not limited to: (i) global and regional economic conditions and economic conditions in the industries we serve; (ii) government monetary or fiscal policies and infrastructure spending; (iii) commodity price changes, component price increases, fluctuations in demand for our products or significant shortages of component products; (iv) disruptions or volatility in global financial markets, limiting our sources of liquidity or the liquidity of our customers, dealers and suppliers; (v) political and economic risks, commercial instability and events beyond our control in the countries in which we operate; (vi) failure to maintain our credit ratings and potential, resulting in increases to our cost of borrowing and adverse effects on our cost of funds, liquidity, competitive position and access to capital markets; (vii) our Financial Products segment's risks associated with the financial services industry; (viii) changes in interest rates or market liquidity conditions; (ix) an increase in delinquencies, repossessions or net losses of Cat Financial's customers; (x) new regulations or changes in financial services regulations; (xi) a failure to realize, or a delay in realizing, all of the anticipated benefits of our acquisitions, joint ventures or divestitures; (xii) international trade policies and their impact on demand for our products and our competitive position; (xiii) our ability to develop, produce and market quality products that meet our customers' needs; (xiv) the impact of the highly competitive environment in which we operate on our sales and pricing; (xv) failure to realize all of the anticipated benefits from initiatives to increase our productivity, efficiency and cash flow and to reduce costs; (xvi) additional restructuring costs or a failure to realize anticipated savings or benefits from past or future cost reduction actions; (xvii) inventory management decisions and sourcing practices of our dealers and our OEM customers; (xviii) compliance with environmental laws and regulations; (xix) alleged or actual violations of trade or anti-corruption laws and regulations; (xx) additional tax expense or exposure; (xxi) currency fluctuations; (xxii) our or Cat Financial's compliance with financial covenants; (xxiii) increased pension plan funding obligations; (xxiv) union disputes or other employee relations issues; (xxv) significant legal proceedings, claims, lawsuits or government investigations; (xxvi) changes in accounting standards; (xxvii) failure or breach of IT security; (xxviii) adverse effects of unexpected events, including natural disasters; and (xxix) other factors described in more detail under "Item 1A. Risk Factors" in our Form 10-K filed with the SEC on February 16, 2016, for the year ended December 31, 2015.

To learn more about Caterpillar in 2015 and our sustainability journey, please visit the full 2015 Year in Review and Sustainability Reports at http://reports.caterpillar.com/

Caterpillar Inc.
100 NE Adams Street
Peoria, Illinois 61629 USA
1 (309) 675-1000

CATERPILLAR®

Re: Due November 4 -- Exemption request for business license

Tax-License Tax-License to: Schreifels_Ann_M 10/26/2016 03:43 PM
Cc: "Jeffrey Whiting"

Caterpillar: Confidential Green Retain Until: 11/25/2016
History: This message has been forwarded.

Ms. Schreifels,

Since Caterpillar Inc will have a business location within Tucson city limits, Caterpillar will need a city business license. If the office in Tucson is not selling any items, then it will not need a City of Tucson tax license.

You can contact the license section at 520-791-4566 regarding a business license. You can also register for a business license using the City's e-tax system.
https://urldefense.proofpoint.com/v2/url?u=https-3A__www.tucsonaz.gov_finance&d=DQIFAg&c=p0oa49nxxGtbbM2qgM-GB4r4m9OlGg-sEp8sXylY2aQ&r=WMM-Ht51y52fzXNRZvP2tBVTk26SHHwUPGwOJAl6F28&m=HPFwjLMGClbmrODIDUKpY0AsADLvILKVeSz0jgvqgbw&s=APhmU16iI7x-JCKk_KSfzLwib00MZic_U0NiNPME11Q&e=

Thank you.

Pam

>>> "Ann M. Schreifels" <Schreifels_Ann_M@cat.com> 10/14/2016 11:47 AM >>>
Hello,

I'm writing behalf of Caterpillar Inc. We are responding to a City of Tucson RFP (#161534) and one of the requirements is to either hold a City of Tucson business license or receive a written determination from your office that a business license is not required.

Though we are responding as a manufacturer, it is our local dealer, Empire Machinery, who will conduct all business with the city. Caterpillar will never directly sell equipment nor collect any funds. This is how we are currently doing business and we are not requesting any changes. (Empire Machinery does have a current City of Tucson business license.)

Would you be able to confirm in writing that Caterpillar Inc. is not required to hold a business license for the purposes of this RFP?

The City of Tucson contract officer leading this RFP is Jeffrey Whiting and either he or I would be happy to clarify this request.

Thank you very much,

Ann Schreifels
Americas Marketing Supervisor
Governmental Sales & Business Processes
Global Construction & Infrastructure
100 NE Adams St. | Peoria, IL | USA | 61629
Tel: 309-266-0471 | Tie: 7-726-0471 | C: 309-338-5976

Certificate of Insurance

Statement of Insurance

From: *Corporate Property and Casualty Finance Services Division Caterpillar Inc. & Subsidiaries*

Re: *Verification of Casualty Insurance Program*

Caterpillar Inc. assumes a major retention for its general liability exposures (including product liability) and auto liability exposures (except where required by state statute). This retention is consistent with Caterpillar's net worth and cash flows.

If Caterpillar's net worth drops below $1 Billion, insurance certificates will be issued. Caterpillar Inc. has in place catastrophic excess liability coverage.

Please contact (309) 675-4645 if you have any questions.

CATERPILLAR®

Certificate of Insurance

Statement of Insurance

From: *Corporate Property and Casualty Finance Services Division Caterpillar Inc. & Subsidiaries*

Re: *Verification of Property Insurance Program*

Caterpillar Inc. assumes a major retention for its corporate property exposures. This retention is consistent with Caterpillar's net worth and cash flows. Catastrophic protection purchased is consistent with other corporations of our size.

Caterpillar Inc. will honor its responsibilities assumed under any agreement.

Please contact (309) 675-8400 if you have any questions.

CATERPILLAR®

Effective with sales to the first user on or after July 1, 2016

CATERPILLAR LIMITED WARRANTY

Earthmoving, Construction, Material Handling, Forestry and Paving Machines

Worldwide

Caterpillar Inc. or any of its subsidiaries ("Caterpillar") warrants the following new products sold by it to be free from defects in material and workmanship:

- Earthmoving, construction, material handling, forestry and paving machines (except as listed below).
- Attachments/work tools installed on such machines prior to delivery (unless covered by the Cat® Work Tool warranty statement or another manufacturer's warranty). Hammer tool points and compacting plates used on hydraulic hammers are not warranted.

Additional warranties are applicable against breakage for certain Cat Ground Engaging Tools and for wear on all landfill compactor tips. Refer to the applicable warranty statements for coverage detail.

This warranty does not apply to:

- Cat Batteries
- Mobil-trac belts, rubber tracks used on multi terrain loaders, compact track loaders, and mini hydraulic excavators
- Cat Work Tools
- 424 Backhoe Loaders, 216 and 226 Skid Steer Loaders, and 320 Excavators sold in India
- Prentice brand forestry machines
- Longwall mining machines
- 785, 789, 793, 794, 795, 797 Off-Highway Truck models sold in regions other than the Commonwealth of Independent States ("CIS")
- 24 Motor Grader models sold in regions other than the CIS
- 854, 992, 993, 994 Wheel Loader models sold in regions other than CIS

These products are covered by other Caterpillar warranties.

This warranty is subject to the following:

Warranty Period

For new machines and work tools/attachments the warranty period is 12-months/unlimited hours, starting from date of delivery to the first user.

Note:

- For hydraulic line's quick connect/disconnect components sold on compact wheel loaders, mini hydraulic excavators, skid steer loaders, multi terrain loaders, and compact track loader machines, the warranty period is 50 hours starting from the date of delivery to the first user.
- For Draglines, Electric Rope Shovels, Hard Rock Movers, Hard Rock Feeders, Hard Rock Miners, Hard Rock Conveyors, Hard Rock Roof Supports; the warranty period is not to exceed 24 months from shipment of the last major component from the Caterpillar place of manufacture.

Caterpillar Responsibilities

If a defect in material or workmanship is found during the warranty period, Caterpillar will, during normal working hours and at a place of business of a Cat dealer or other source approved by Caterpillar

- Provide (at Caterpillar's choice) new, remanufactured, or Caterpillar approved repaired parts or assembled components needed to correct the defect.

Note: New, remanufactured, or Caterpillar approved replacement parts provided under the terms of this warranty are warranted for the remainder of the warranty period applicable to the product in which installed as if such parts were original components of that product. Items replaced under this warranty become the property of Caterpillar.

- Replace lubricating oil, filters, antifreeze, and other service items made unusable by the defect.
- Provide reasonable and customary labor needed to correct the defect.

User Responsibilities

The user is responsible for:

- Providing proof of delivery date to the first user.
- Labor costs, except as stated under "Caterpillar Responsibilities."
- Transportation costs, except as stated under "Caterpillar Responsibilities."
- Premium or overtime labor costs.
- Parts shipping charges in excess of those that are considered usual and customary.
- Local taxes, if applicable.
- Costs to investigate complaints, unless the problem is caused by a defect in Caterpillar material or workmanship.
- Giving timely notice of a warrantable failure and promptly making the product available for repair.
- Performance of the required maintenance (including use of proper fuel, oil, lubricants, and coolant) and items replaced due to normal wear and tear.
- Allowing Caterpillar access to all electronically stored data.

Limitations

Caterpillar is not responsible for:

- Failures resulting from any use or installation that Caterpillar judges improper.
- Failures resulting from attachments, accessory items, and parts not sold or approved by Caterpillar.
- Failures resulting from abuse, neglect, and/or improper storage or repair.
- Failures resulting from user's delay in making the product available after being notified of a potential product problem.
- Failures resulting from unauthorized repair or adjustments, and unauthorized fuel setting changes.

continued…

This warranty covers every major component of the products. Claims under this warranty should be submitted to a place of business of a Cat dealer or other source approved by Caterpillar. For further information concerning either the location to submit claims or Caterpillar as the issuer of this warranty, write Caterpillar Inc., 100 N. E. Adams St., Peoria, IL USA 61629.

Caterpillar's obligations under this Limited Warranty are subject to, and shall not apply in contravention of, the laws, rules, regulations, directives, ordinances, orders, or statutes of the United States, or of any other applicable jurisdiction, without recourse or liability with respect to Caterpillar.

A) For products operating outside of Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

NEITHER THE FOREGOING EXPRESS WARRANTY NOR ANY OTHER WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED, IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT CATERPILLAR EMISSION-RELATED COMPONENTS WARRANTY FOR NEW ENGINES, WHERE APPLICABLE. REMEDIES UNDER THIS WARRANTY ARE LIMITED TO THE PROVISION OF MATERIAL AND SERVICES, AS SPECIFIED HEREIN.

CATERPILLAR IS NOT RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED IN ITS ENTIRETY.

B) For products operating in Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

THIS WARRANTY IS IN ADDITION TO WARRANTIES AND CONDITIONS IMPLIED BY STATUTE AND OTHER STATUTORY RIGHTS AND OBLIGATIONS THAT BY ANY APPLICABLE LAW CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED ("MANDATORY RIGHTS"). ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED (BY STATUTE OR OTHERWISE), ARE EXCLUDED. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS PARAGRAPH, WHERE A PRODUCT IS SUPPLIED FOR BUSINESS PURPOSES, THE CONSUMER GUARANTEES UNDER THE CONSUMER GUARANTEES ACT 1993 (NZ) WILL NOT APPLY.
NEITHER THIS WARRANTY NOR ANY OTHER CONDITION OR WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED (SUBJECT ONLY TO THE MANDATORY RIGHTS), IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

IF THE MANDATORY RIGHTS MAKE CATERPILLAR LIABLE IN CONNECTION WITH SERVICES OR GOODS, THEN TO THE EXTENT PERMITTED UNDER THE MANDATORY RIGHTS, THAT LIABILITY SHALL BE LIMITED AT CATERPILLAR'S OPTION TO (a) IN THE CASE OF SERVICES, THE SUPPLY OF THE SERVICES AGAIN OR THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN AND (b) IN THE CASE OF GOODS, THE REPAIR OR REPLACEMENT OF THE GOODS, THE SUPPLY OF EQUIVALENT GOODS, THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT GOODS.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

CATERPILLAR IS NOT LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES UNLESS IMPOSED UNDER MANDATORY RIGHTS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION (CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS) IS EXCLUDED IN ITS ENTIRETY.

C) For products supplied in Australia:

IF THE PRODUCTS TO WHICH THIS WARRANTY APPLIES ARE:

I. PRODUCTS OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION; OR

II. PRODUCTS THAT COST AUD 40,000 OR LESS,

WHERE THOSE PRODUCTS WERE NOT ACQUIRED FOR THE PURPOSE OF RE-SUPPLY OR FOR THE PURPOSE OF USING THEM UP OR TRANSFORMING THEM IN THE COURSE OF PRODUCTION OR MANUFACTURE OR IN THE COURSE OF REPAIRING OTHER GOODS OR FIXTURES, THEN THIS SECTION C APPLIES.

THE FOLLOWING MANDATORY TEXT IS INCLUDED PURSUANT TO THE AUSTRALIAN CONSUMER LAW AND INCLUDES REFERENCES TO RIGHTS THE USER MAY HAVE AGAINST THE DIRECT SUPPLIER OF THE PRODUCTS: OUR GOODS COME WITH GUARANTEES THAT CANNOT BE EXCLUDED UNDER THE AUSTRALIAN CONSUMER LAW. YOU ARE ENTITLED TO A REPLACEMENT OR REFUND FOR A MAJOR FAILURE AND COMPENSATION FOR ANY OTHER REASONABLY FORESEEABLE LOSS OR DAMAGE. YOU ARE ALSO ENTITLED TO HAVE THE GOODS REPAIRED OR REPLACED IF THE GOODS FAIL TO BE OF ACCEPTABLE QUALITY AND THE FAILURE DOES NOT AMOUNT TO A MAJOR FAILURE. THE INCLUSION OF THIS TEXT DOES NOT CONSTITUTE ANY REPRESENTATION OR ACCEPTANCE BY CATERPILLAR OF LIABILITY TO THE USER OR ANY OTHER PERSON IN ADDITION TO THAT WHICH CATERPILLAR MAY HAVE UNDER THE AUSTRALIAN CONSUMER LAW.

TO THE EXTENT THE PRODUCTS FALL WITHIN THIS SECTION C BUT ARE NOT OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION, CATERPILLAR LIMITS ITS LIABILITY TO THE EXTENT IT IS PERMITTED TO DO SO UNDER THE AUSTRALIAN CONSUMER LAW TO, AT ITS OPTION, THE REPAIR OR REPLACEMENT OF THE PRODUCTS, THE SUPPLY OF EQUIVALENT PRODUCTS, OR THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT PRODUCTS.

THE WARRANTY SET OUT IN THIS DOCUMENT IS GIVEN BY CATERPILLAR INC. OR ANY OF ITS SUBSIDIARIES, 100 N. E. ADAMS ST, PEORIA, IL USA 61629, TELEPHONE 1 309 675 1000,THE USER IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH MAKING A CLAIM UNDER THE WARRANTY SET OUT IN THIS DOCUMENT, EXCEPT AS EXPRESSLY STATED OTHERWISE IN THIS DOCUMENT, AND THE USER IS REFERRED TO THE BALANCE OF THE DOCUMENT TERMS CONCERNING CLAIM PROCEDURES, CATERPILLAR RESPONSIBILITIES AND USER RESPONSIBILITIES.

TO THE EXTENT PERMISSIBLE BY LAW, THE TERMS SET OUT IN THE REMAINDER OF THIS WARRANTY DOCUMENT (INCLUDING SECTION B) CONTINUE TO APPLY TO PRODUCTS TO WHICH THIS SECTION C APPLIES.

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CAT, CATERPILLAR, their respective logos, "Caterpillar Yellow," the "Power Edge" trade dress as well as corporate and product identity used herein, are trademarks of Caterpillar and may not be used without permission.

Effective with sales to the first user on or after January 1, 2014.

CATERPILLAR LIMITED WARRANTY

Rubber Track Used on Multi Terrain Loaders, Compact Track Loaders, and Mini Hydraulic Excavators

Worldwide

Caterpillar Inc. or any of its subsidiaries ("Caterpillar") warrants new rubber tracks sold by it for use on Compact Construction Equipment Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators to be free from defects in material and workmanship. The warranty is subject to the following:

Warranty Period

The standard warranty period for all new Premium rubber tracks used on Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators is 12 months, or 1500 operating hours, whichever occurs first, starting from the date of delivery to the first user.

The standard warranty period for new General Duty rubber tracks used on Multi Terrain Loaders and Compact Track Loaders is 12 months or 1000 operating hours, whichever occurs first, starting from the date of delivery to the first user.

Caterpillar Responsibilities

If a disabling defect in material or workmanship is found during the warranty period, Caterpillar will, during normal working hours and at a place of business of a Cat® dealer or other source approved by Caterpillar:

- At Caterpillar's choice, repair or provide an allowance toward the purchase of a new rubber track. Such allowance will be based on accrued hours. Allowance will be calculated as follows:

User Allowance for Multi Terrain Loaders, Compact Track Loaders and Mini Hydraulic Excavators with Premium rubber tracks:

Allowance (%) = (1-Track hours/1500 hours) X 100

User Allowance for Multi Terrain Loaders and Compact Track Loaders with General Duty rubber tracks.

Allowance (%) = (1-Track hours /1000 hours) X 100

- Provide reasonable and customary repair labor needed to correct the defect if product found to be defective and its replacement are both installed by a Cat dealer or other source approved by Caterpillar, or installed on machine prior to sale.

User Responsibilities

The user is responsible for:

- Providing proof of the delivery date to the first user.
- All cost associated with transporting the product to and from the place of business of a Caterpillar dealer or other source approved by Caterpillar.
- Labor costs, except as stated under "Caterpillar Responsibilities."
- Local taxes, if applicable.
- Any remaining costs of a new rubber track after the calculation of the "User Allowance" as stated under "Caterpillar Responsibilities."
- Parts shipping charges in excess of those that are usual and customary.
- Costs to investigate complaints, unless the problem is caused by a defect in material or workmanship.
- Giving timely notice of a warrantable failure and promptly making the product available for repair.

Limitations

Caterpillar is not responsible for:

- Failures resulting from any use or installation that Caterpillar judges improper.
- Failures resulting from abuse, neglect, or improper repair.
- Failures resulting from user's delay in making the product available after being notified of a potential product problem.
- Failures resulting from unauthorized repair or adjustments and unauthorized fuel setting changes.
- Failures resulting from attachments, accessory items, and parts not sold or approved by Caterpillar.

(Continued on reverse side....)

This warranty covers every major component of the products. Claims under this warranty should be submitted to a place of business of a Cat dealer or other source approved by Caterpillar. For further information concerning either the location to submit claims or Caterpillar as the issuer of this warranty, write Caterpillar Inc., 100 N. E. Adams St., Peoria, IL USA 61629.

Caterpillar's obligations under this Limited Warranty are subject to, and shall not apply in contravention of, the laws, rules, regulations, directives, ordinances, orders, or statutes of the United States, or of any other applicable jurisdiction, without recourse or liability with respect to Caterpillar.

A) For products operating outside of Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

NEITHER THE FOREGOING EXPRESS WARRANTY NOR ANY OTHER WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED, IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS, WHICH IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. REMEDIES UNDER THIS WARRANTY ARE LIMITED TO THE PROVISION OF MATERIAL AND SERVICES, AS SPECIFIED HEREIN.

CATERPILLAR IS NOT RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES.

CATERPILLAR EXCLUDES ALL LIABILITY FOR OR ARISING FROM ANY NEGLIGENCE ON ITS PART OR ON THE PART OF ANY OF ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES IN RESPECT OF THE MANUFACTURE OR SUPPLY OF GOODS OR THE PROVISION OF SERVICES RELATING TO THE GOODS.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED IN ITS ENTIRETY.

B) For products operating in Australia, Fiji, Nauru, New Caledonia, New Zealand, Papua New Guinea, the Solomon Islands, and Tahiti, the following is applicable:

THIS WARRANTY IS IN ADDITION TO WARRANTIES AND CONDITIONS IMPLIED BY STATUTE AND OTHER STATUTORY RIGHTS AND OBLIGATIONS THAT BY ANY APPLICABLE LAW CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED ("MANDATORY RIGHTS"). ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED (BY STATUTE OR OTHERWISE), ARE EXCLUDED. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS PARAGRAPH, WHERE A PRODUCT IS SUPPLIED FOR BUSINESS PURPOSES, THE CONSUMER GUARANTEES UNDER THE CONSUMER GUARANTEES ACT 1993 (NZ) WILL NOT APPLY.

NEITHER THIS WARRANTY NOR ANY OTHER CONDITION OR WARRANTY BY CATERPILLAR, EXPRESS OR IMPLIED (SUBJECT ONLY TO THE MANDATORY RIGHTS), IS APPLICABLE TO ANY ITEM CATERPILLAR SELLS THAT IS WARRANTED DIRECTLY TO THE USER BY ITS MANUFACTURER.

IF THE MANDATORY RIGHTS MAKE CATERPILLAR LIABLE IN CONNECTION WITH SERVICES OR GOODS, THEN TO THE EXTENT PERMITTED UNDER THE MANDATORY RIGHTS, THAT LIABILITY SHALL BE LIMITED AT CATERPILLAR'S OPTION TO (a) IN THE CASE OF SERVICES, THE SUPPLY OF THE SERVICES AGAIN OR THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN AND (b) IN THE CASE OF GOODS, THE REPAIR OR REPLACEMENT OF THE GOODS, THE SUPPLY OF EQUIVALENT GOODS, THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT GOODS.

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IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED IN ITS ENTIRETY.

C) For products supplied in Australia:

IF THE PRODUCTS TO WHICH THIS WARRANTY APPLIES ARE:

- **I. PRODUCTS OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION; OR**
- **II. PRODUCTS THAT COST AUD 40,000 OR LESS,**

WHERE THOSE PRODUCTS WERE NOT ACQUIRED FOR THE PURPOSE OF RE-SUPPLY OR FOR THE PURPOSE OF USING THEM UP OR TRANSFORMING THEM IN THE COURSE OF PRODUCTION OR MANUFACTURE OR IN THE COURSE OF REPAIRING OTHER GOODS OR FIXTURES, THEN THIS SECTION C APPLIES.

THE FOLLOWING MANDATORY TEXT IS INCLUDED PURSUANT TO THE AUSTRALIAN CONSUMER LAW AND INCLUDES REFERENCES TO RIGHTS THE USER MAY HAVE AGAINST THE DIRECT SUPPLIER OF THE PRODUCTS: OUR GOODS COME WITH GUARANTEES THAT CANNOT BE EXCLUDED UNDER THE AUSTRALIAN CONSUMER LAW. YOU ARE ENTITLED TO A REPLACEMENT OR REFUND FOR A MAJOR FAILURE AND COMPENSATION FOR ANY OTHER REASONABLY FORESEEABLE LOSS OR DAMAGE. YOU ARE ALSO ENTITLED TO HAVE THE GOODS REPAIRED OR REPLACED IF THE GOODS FAIL TO BE OF ACCEPTABLE QUALITY AND THE FAILURE DOES NOT AMOUNT TO A MAJOR FAILURE. THE INCLUSION OF THIS TEXT DOES NOT CONSTITUTE ANY REPRESENTATION OR ACCEPTANCE BY CATERPILLAR OF LIABILITY TO THE USER OR ANY OTHER PERSON IN ADDITION TO THAT WHICH CATERPILLAR MAY HAVE UNDER THE AUSTRALIAN CONSUMER LAW.

TO THE EXTENT THE PRODUCTS FALL WITHIN THIS SECTION C BUT ARE NOT OF A KIND ORDINARILY ACQUIRED FOR PERSONAL, DOMESTIC OR HOUSEHOLD USE OR CONSUMPTION, CATERPILLAR LIMITS ITS LIABILITY TO THE EXTENT IT IS PERMITTED TO DO SO UNDER THE AUSTRALIAN CONSUMER LAW TO, AT ITS OPTION, THE REPAIR OR REPLACEMENT OF THE PRODUCTS, THE SUPPLY OF EQUIVALENT PRODUCTS, OR THE PAYMENT OF THE COST OF SUCH REPAIR OR REPLACEMENT OR THE ACQUISITION OF EQUIVALENT PRODUCTS.

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TO THE EXTENT PERMISSIBLE BY LAW, THE TERMS SET OUT IN THE REMAINDER OF THIS WARRANTY DOCUMENT (INCLUDING SECTION B) CONTINUE TO APPLY TO PRODUCTS TO WHICH THIS SECTION C APPLIES.

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CAT, CATERPILLAR, their respective logos, "Caterpillar Yellow", the "Power Edge" trade dress as well as corporate and product identity used herein, are trademarks of Caterpillar and may not be used without permission.

City of Tucson

License Certificate

Business Name and Tucson Mailing Address:

EMPIRE SOUTHWEST LLC
PO BOX 2985
PHOENIX AZ 85062-2985

License Number: 3006282

Type: General Freight Trucking, Local

Issue Date: December 31, 2015

Expiration Date: December 31, 2016

Owner:
EMPIRE SOUTHWEST LLC

This license / permit is **non-transferable** and must be posted in a conspicuous place at the business location.

THE ISSUANCE OF THIS LICENSE / PERMIT SHALL NOT BE CONSTRUED AS PERMISSION TO OPERATE IN VIOLATION OF ANY LAW OR REGULATION.

FOLD HERE

CITY OF TUCSON, ARIZONA
FINANCE DEPARTMENT
REVENUE DIVISION - LICENSE
Expiration Date: December 31, 2016

Non-Transferable

3006282

MUST BE DISPLAYED IN A CONSPICUOUS PLACE

Business License

For the payment of the license fee, the person or firm below is hereby licensed to conduct business in the City of Tucson. Tax accruing to the City of Tucson shall be paid under provisions of Ch. 19, Tucson City Code. This license is subject to revocation for violation of Ch. 7 or Ch. 19 of the Tucson City Code.

Issued To: EMPIRE SOUTHWEST LLC

Located At: 7600 S NOGALES HY, TUCSON, AZ 85756

Effective: January 01, 2016

Please refer to license number in all correspondence.

By _____
Finance Director

Caterpillar Inc.
100 NE Adams Street
Peoria, IL 61629

TO: Jeffrey Whiting, Contract Officer
City of Tucson, AZ

FM: Patty Redpath, Governmental Account Manager
Caterpillar Inc.

RE: Payments for purchases under RFP #161534

As requested in the RFP, this note constitutes formal notice that payments by the City of Tucson for products and services under this contract should be made to our authorized dealer, Empire Machinery.

Payments should be directed to:

Empire Southwest, LLC
P.O. Box 2985
Phoenix, AZ 85062-2985

Any questions regarding payments should be directed to your account manager or to accounts.receivable@empire-cat.com.

2017 Caterpillar Coop Contract Discounts - for City of Tucson RFP - November 2016.xls

Cooperative Contracts 2017 - City of Tucson RFP Response

Machine Model*	New Equipment
2016	Discount to Customer (Off List Price)
Pavers	
AP255	16.00%
AP300	16.00%
AP355	16.00%
AP500	16.00%
AP555	16.00%
AP600	16.00%
AP655	16.00%
AP1000	16.00%
AP1055	16.00%
Rollers	
CB7	16.00%
CB8	16.00%
CB10	16.00%
CB14	16.00%
CB22	16.00%
CB24	16.00%
CB32	16.00%
CB34	16.00%
CB36	16.00%
CB44	16.00%
CB46	16.00%
CB54	16.00%
CB64	16.00%
CB66	16.00%
CB68	16.00%
CC24	16.00%
CC34	16.00%
CD8	16.00%
CD10	16.00%
CD44	16.00%
CD54	16.00%
CP34	14.00%
CP44	14.00%
CP54	14.00%
CP56	14.00%
CP68	14.00%
CP74	14.00%
CS34	14.00%
CS44	14.00%
CS54	14.00%
CS56	14.00%
CS64	14.00%
CS68	14.00%
CS78	14.00%
CW14	16.00%
CW16	16.00%
CW34	16.00%

***Note: Base machines are listed. There may be several different base machine configurations available. (For example, the D6 model track type tractor is available as a D6K, D6N and D6T). The base machine discount will be applied to any model configuration plus any and all options listed on the Caterpillar Machine price list.**

2017 Caterpillar Coop Contract Discounts - for City of Tucson RFP - November 2016.xls

Vocational Trucks

CT660	23.00%
CT680	23.00%
CT681	23.00%

Track Type Tractors

D3	25.00%
D4	25.00%
D5	25.00%
D6	24.00%
D7	22.00%
D8	22.00%
D9	10.00%

Wheeled Excavators

M314F	30.00%
M315F	30.00%
M316F	30.00%
M317F	30.00%
M318F	30.00%
M320F	30.00%
M322F	30.00%

Cold Planers

PM102	14.00%
PM620	14.00%
PM622	14.00%

Reclaimers

RM300	14.00%
RM500	14.00%

Telehandlers

TH255	26.00%
TH306	26.00%
TH3510	26.00%
TH406	26.00%
TH407	26.00%
TH514	26.00%
TL642	26.00%
TL943	26.00%
TL1055	26.00%
TL1255	26.00%

Motor Graders

12	33.00%
120	37.00%
140	33.00%
160	33.00%
14	23.00%

Skid Steer Loaders

226	25.00%
232	25.00%
236	25.00%
242	25.00%
246	25.00%
262	25.00%
272	25.00%

Multi-Terrain Loaders

257	25.00%
277	25.00%
287	25.00%
297	25.00%

2017 Caterpillar Coop Contract Discounts - for City of Tucson RFP - November 2016.xls

Compact Track Loaders

239	25.00%
249	25.00%
259	25.00%
279	25.00%
289	25.00%
299	25.00%

Excavators

300.9	24.00%
301.4	24.00%
301.7	24.00%
302.4	24.00%
302.7	24.00%
303	24.00%
303.5	24.00%
304	24.00%
304.5	24.00%
305	24.00%
305.5	24.00%
307	24.00%
308	24.00%
311	24.00%
312	21.00%
313	21.00%
313GC	21.00%
315	25.00%
316	25.00%
318	22.00%
320	18.00%
321	18.00%
323	18.00%
325	18.00%
326	18.00%
329	18.00%
330	18.00%
335	18.00%
336	18.00%
349	12.00%
352	12.00%
374	12.00%

Backhoe Loaders

415	24.00%
416	24.00%
420	24.00%
430	24.00%
450	24.00%

Site Prep Tractor

586C	20.00%

Wheel Tractor Scrapers

621	16.00%
623	17.00%
627	16.00%

2017 Caterpillar Coop Contract Discounts - for City of Tucson RFP - November 2016.xls

Articulated Trucks	
725	14.00%
730	14.00%
735	14.00%
740	14.00%
745	14.00%

Rigid Frame Trucks	
770	10.00%
773	10.00%

Landfill Compactors	
816	14.00%
826	14.00%
836	14.00%

Wheel Dozers and Soil Compactors	
814	15.00%
815	15.00%
824	15.00%
825	15.00%

Wheel Loaders	
903	25.00%
906	25.00%
907	25.00%
908	25.00%
910	25.00%
914	25.00%
918	26.00%
924	26.00%
926	26.00%
930	26.00%
938	26.00%
950GC	26.00%
950M	24.00%
962	24.00%
966	21.00%
972	16.00%
980	12.00%
982	12.00%

Track Loaders	
953	20.00%
963	23.00%
973	23.00%

Worktools	15.00%

Caterpillar Safety Services	15.00%

Used Equipment is discounted 20% from Original Customer List

Rental Equipment is discounted 10% from dealership Rental Rates

Parts & Service is discounted by the servicing dealer according to work order volume

Caterpillar Oct. 7, 2016 National IPA Participant Discounts

All Discounts listed are for "Standby Ratings Only unless otherwise stated".

	Participant Discount
60 HZ, 40 - 175 kW *(Reference the "PSNA-EPG-F_PE400CNN" Caterpillar Price List)*	
D13	50%
D20	50%
D25	50%
D30	50%
60 HZ, 40 - 175 kW *(Reference the "PSNA-EPG-F_1100CNN" Caterpillar Price List)*	
D40-6 (3 phase)	50%
D50-6 (3 phase)	50%
D60-6 (3 phase)	50%
D80-6 (3 phase)	50%
D100-6 (3 phase)	50%
D125-6 (3 phase)	50%
D150-8 (3 phase)	50%
D175-2 (3 phase)	50%
D40-6S (1 phase)	50%
D50-6S (1 phase)	50%
D60-8S (1 phase)	50%
D80-2S (1 phase)	50%
D100-6S (1 phase)	50%
60 HZ, 40 - 60 kW *(Reference the "PSNA-EPG-F_C4.4LCAN" Caterpillar Price List)*	
D40-6	31%
D50-6	31%
D60-6	31%
D40-2LC	31%
D50-2LC	31%
D60-2LC	31%
60 HZ, 40 - 100 kW *(Reference the "PSNA-EPG-F_C4.4PGAN or C4.4PGBN" Caterpillar Price List)*	
D40 (3 phase)	31%
D50 (3 phase)	31%
D60 (3 phase)	31%
D80 (3 phase)	31%
D100 (3 phase)	31%
D40-S (1 phase)	31%
D50-S (1 phase)	31%
D60-S (1 phase)	31%
D80-S (1 phase)	31%
D100-S (1 phase)	31%
60 HZ, 125 - 175 kW *(Reference the "PSNA-EPG-F_C6.6PGAN" Caterpillar Price List)*	
D125-6 (3 phase)	35%
D150-8 (3 phase)	35%
D175-2 (3 phase)	35%
60 HZ, 200 kW *(Reference the "PSNA-EPG-F_C7.1PGAN" Caterpillar Price List)*	
D200-2 (3 phase)	35%
C9, 60 HZ, 200 - 300 eKW (Reference the "PSNA-EPG-F_C9PKGN" Caterpillar Price List)	
200 kW (600, 480, 240 Volt)*	38%
250 kW (600, 480, 240 Volt)*	36%
300 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	
C9, 60 HZ, 200 - 300 eKW (Reference the "PSNA-EPG-F_C9PGAN" Caterpillar Price List)	
200 kW (600, 480, 240 Volt)*	33%
250 kW (600, 480, 240 Volt)*	37%
300 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	
C13PGAN, 350kW & 400kW	37%
C15, 60 HZ, 350 - 500 KW (Reference the "PSNA-EPG-F_C15PGAN" Caterpillar Price List)	
350 kW (600, 480, 240 Volt)*	37%
400 kW (600, 480, 240 Volt)*	37%
450 kW (600, 480, 240 Volt)*	37%
500 kW (600, 480, 240 Volt)*	37%
*Other Voltages available, but may affect generator output	

C15, 60 HZ, 455 - 500 KW (Reference the "PSNA-EPG-F_C15PKGN" Caterpillar Price List)	
(EPA & CARB Tier 4 Interim Emissions Certified)	
455 kW Prime Power, 500 kW Standby 600 Volt Tier 4i	20%
455 kW Prime Power, 500 kW Standby 480 Volt Tier 4i	20%
455 kW Prime Power, 500 kW Standby 208 Volt Tier 4i	20%
C18, 60 HZ, 550 - 600 kW (Reference the "PSNA-EPG-F_C18PGAN" Caterpillar Price List)	
550 kW (600, 480, 240 Volt)*	33%
600 kW (600, 480, 240 Volt)*	33%
*Other Voltages available, but may affect generator output	
C18, 60 HZ, 455 - 500 KW (Reference the "PSNA-EPG-F_C18PKAN" Caterpillar Price List)	
(EPA & CARB Tier 4 Final Emissions Certified)	
455 kW Prime Power, 500 kW Standby 480 Volt Tier 4F	20%
C27, 60 HZ, 750 - 800 KW (Reference the "PSNA-EPG-F_C27PGBN" Caterpillar Price List)	
750 kW 480 Volt	33%
800 kW 480 Volt	33%
C27, 60 HZ, 725 - 800 KW (Reference the "PSNA-EPG-F_C27PKGN" Caterpillar Price List)	
(EPA & CARB Tier 4 Interim Emissions Certified)	
725 kW Prime Power, 800 kW Standby 480 Volt Tier 4i	17%
725 kW Prime Power, 800 kW Standby 480 Volt Tier 4i Heavy Duty	17%
C32, 60 HZ, 1000 kW	
(Reference the "PSNA-EPG-F_C32PKGN" Caterpillar Price List)	
1000 kW 480	37%
3512C, 60 HZ, 1500 kW (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3512PGAN" Caterpillar Price List)	
480 V, Standby Rating Only - 1500 kW	33%
12470 V, Standby Rating Only - 1500 kW	33%
3516C, 60 HZ, 2000 kW (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3516PGAG" Caterpillar Price List)	
480 V, Standby Rating Only - 2000 kW	33%
12470 V, Standby Rating Only - 2000 kW	33%
3516C-HD, 60 HZ, 2500 kW (EPA Tier 4) 480/277, 4160, 12470 Volts available	
(Reference the "PSNA-EPG-F_3516PGEG" Caterpillar Price List)	19%
3516C-HD, 60 HZ, 2000 kW (EPA Tier 4) 480/277, 460, 12470 Volts available	
(Reference the "PSNA-EPG-F_3516PGEG" Caterpillar Price List)	19%
3516B, 60 HZ, 2000 kW (EPA Tier 1)	
(Reference the "PSNA-EPG-F_3516PGDG" Caterpillar Price List)	
Low/Med Voltage - Standby Rating Only - 2000 kW	32%
High Voltage - Standby Rating Only - 2000 kW	32%
3516B, 60 HZ, 2250 kW (EPA Tier 1)	
(Reference the "PSNA-EPG-F_3516PGDG" Caterpillar Price List)	
Low/Med Voltage - Standby Rating Only - 2250 kW	32%
High Voltage - Standby Rating Only - 2250 kW	32%
3516C HD, 60 HZ, 2500 kW (EPA Tier 2 & CARB Emissions Certified (Nonroad); EPA Tier 2 Emissions Certified for Stationary Use)	
(Reference the "PSNA-EPG-F_3516PGEG" Caterpillar Price List)	
Low/Med Voltage - Standby Rating Only - 2500 kW	30%
High Voltage - Standby Rating Only - 2500 kW	30%
3516-PGDL, 2MW, 2.5MW	32%
3516-PGEL, 2MW, 2.5MW Tier 4 Final	19%
G3412, 60 HZ, 1200 RPM, 3 Phase, 480 Volt	
(Reference the "PSNA-EPG-F_G3412PGG" Caterpillar Price List)	26%
G3508, 60 HZ, 1200 RPM, 3 Phase, 480 Volt	
(Reference the "PSNA-EPG-F_G3508EPG" Caterpillar Price List)	17%
G3412PGG Standby, 375kW, 450kW, 500kW	26%
G3512NL Stationary Certified 831bkW, 1095bkW	17%
G3516, 60 HZ, 1800 RPM, 3 Phase, 240 or 480 Volt, Self Excited	
(Reference the "PSNA-EPG-F_G3516APGG" Caterpillar Price List)	
1040 eKW - Standby	17%

G3516, 60HZ, 1200 RPM, 3 Phase, 480 Volt
(Reference the "PSNA-EPG-F_G3516AEPG" Caterpillar Price List) 17%

G3516H, 60HZ, 1500 RPM, 3 Phase
(Reference the "PSNA-EPG-F_G3516HNG" Caterpillar Price List) 17%

G3520H, 60 HZ
(Reference the "PSNA-EPG-F_G3520HNL" Caterpillar Price List) 17%

G3520, 60 HZ, 2055, 1900, or 1600 eKW
(Reference the "PSNA-EPG-F_G3520CPGL" Caterpillar Price List) 17%

CG132, CG170, CG260 (custom) 15%

Due to the customization and plethora of options, it is not feasible to provide a paper price list for these specific generator sets.
Each quote is custom for the specific application.
However, members will receive a 15% discount off of the configured list price from each member's local dealer.

C175, 60 HZ, 4000 kW (EPA Tier 2 for Mobile and Stationary Use)
(Reference the "PSNA-EPG-F_C175-20EL" Caterpillar Price List)
4000 kW (with Fan Rating) 24%

C175, 60 HZ, 3000 kW (EPA Tier 4)
(Reference the "PSNA-EPG-F_C175A16EL" Caterpillar Price List)
3000 kW (with Fan Rating) 19%

C175, 60 HZ, 3000 kW (EPA Tier 2 for Mobile and Stationary Use)
(Reference the "PSNA-EPG-F_C175-16EL" Caterpillar Price List)
3000 kW (with Fan Rating) 26%
3100 kW (without Fan Rating) 26%

G30PGAN, 30kW

G80PGAN, 50kW, 60kW, 80kW

G150PGAN, 100kW, 125kW, 150kW

Natural Gas (Optional LPG) Olympian Generator Sets, 25 - 300 kW
(Reference the "PSNA-EPG-F_GASOLYGN" Caterpillar Price List)

G25	26%
G35	26%
G40	26%
G45	26%
G50	26%
G60	26%
G70	26%
G80	26%
G100	26%
G130	26%
G150	26%
G150	26%
G175	26%
G200	26%
G230	26%
G250	26%
G275	26%
G300	26%

APS60 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List) 17%
APS100 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List) 17%
APS1000 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List) 17%
APS2000 - (Reference the "APS 60 100 1000 2000 List Price" Caterpillar Price List) 17%

XQ20N, 60 HZ, 20 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad))
(Reference the "PSNA-EPG-F_XQ20N" Caterpillar Price List)
20 kW* (3 or 1 phase) 45%
*There are several voltage options available

XQ30N, 60 HZ, 30 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad))
(Reference the "PSNA-EPG-F_XQ30N" Caterpillar Price List)
30 kW* (3 or 1 phase) 45%
*There are several voltage options available

XQ35BN, 60 HZ, 35 kVA prime (EPA Tier 4 Final & CARB Emissions Certified (Non-road))
(Reference the "PSNA-EPG-F_XQ35BN" Caterpillar Price List)

XQ60N, 60 HZ, 60 kW (EPA Tier 4 & CARB Emissions Certified (Nonroad))
(Reference the "PSNA-EPG-F_XQ60N" Caterpillar Price List)
60 kW* (3 or 1 phase) 45%
*There are several voltage options available

XQ60BN Tier 4 Final	23%
XQ200N, 60 HZ, 200 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ200N" Caterpillar Price List)	
182 kW* (3 phase or 1 phase)	45%
XQ350N, 60 HZ, 350 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ350N" Caterpillar Price List)	
320 kW* (3 phase or 1 phase)	23%
XQ375BN, 60 HZ, 375 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ375BN" Caterpillar Price List)	23%
XQ500N, 60 HZ, 500 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ500N" Caterpillar Price List)	
455 kW* (3 or 1 phase)	23%
XQ570BN, 60 HZ, 500 kW (EPA Tier 4 Final & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ570BN" Caterpillar Price List)	23%
XQ800N, 60 HZ, 800 kW (EPA Tier 4 Interim & CARB Emissions Certified (Non-road))	
(Reference the "PSNA-EPG-F_XQ800N" Caterpillar Price List)	
725 kW* (3 or 1 phase)	23%
*There are several voltage options available	
XQ2000N, 60 HZ, 2000 kW (EPA Tier 2 & CARB Emissions Certified)	
(Reference the "XQ2000N" Caterpillar Price List)	
1825 kW* (3 phase)	19%
Switchgear (customizable)	12%
*Due to the customization and plethora of options, it is not feasible to provide a paper price list for Cat switchgear. However, members will receive a **12% discount** off of the configured list price from each member's local dealer.*	
UPS (Uninterruptible Power Supply)	
60 HZ, 40 - 130 kVA (Reference the "UPSB130G" Caterpillar Price List)	
UPSB040 (40kVA)	20%
UPSB050 (50 kVA)	20%
UPSB060 (60 kVA)	20%
UPSB080 (80 kVA)	20%
UPSB100 (100 kVA)	20%
UPSB130 (130 kVA)	20%
Plus all price list related options	20%
UPS (Uninterruptible Power Supply)	
Flywheel Options	
(Reference the "UPS300AG" Caterpillar Price List)	
UP0300A - UPS 300 480V 60HZ	20%
UP300G - UPS 300 480V 60HZ	20%
UP0600G - UPS 600 480V 60HZ	20%
UPO300Z - UPS 300 480V 60HZ	20%
UPO600Z - UPS 600 480V 60HZ	20%
UPO900Z - UPS 900 480V 60HZ	20%
UPO1200Z - UPS 1200 480V 60HZ	20%
UPEXP02 - UPS Module Power Stage Expansion	20%
(Reference the "UPS750FG" Caterpillar Price List)	20%
Epic (Reference the "CATEPICG" Price List)	
Epic - Master Control Panel	10%
Epic - Generator Control Panel	10%
Epic - Utility Control Panel	10%
Supervisory Contol Panel (Reference the "CATSCPN" Price List)	
EMCP 4.4 SCP	10%
ATS (AUTOMATIC TRANSFER SWITCHES)	
444 ATS's available via ATS 2014 Price List Password: ATS2011	20%

Caterpillar Sourced Goods & Support Services Multiplier (Power Systems Only)

Sourced Goods & Support Service Provided	National IPA Member Pricing
Custom Shop Work	5% off list price / typical sale price if no list price is available
Installation	5% off list price / typical sale price if no list price is available
Delivery/Freight	5% off list price / typical sale price if no list price is available
Training	5% off list price / typical sale price if no list price is available
Custom Enclosure	5% off list price / typical sale price if no list price is available
Custom Fuel Tank	5% off list price / typical sale price if no list price is available
Custom ATS	5% off list price / typical sale price if no list price is available
Dealer Labor	5% off list price / typical sale price if no list price is available
Additional/Custom Parts	5% off list price / typical sale price if no list price is available
General Contracting Labor	5% off list price / typical sale price if no list price is available
Maintenance Agreements	5% off list price / typical sale price if no list price is available

Electrical Energy Generation Equipment with Related Accessories, Services, and Supplies.

CITY OF TUCSON
DEPARTMENT OF PROCUREMENT

REQUEST FOR PROPOSAL NO. 161534

Heavy Equipment, Parts, Accessories, Supplies and Related Services

AMENDMENT NO. ONE (1)

The referenced document has been modified as per the attached Amendment No. One (1).

Please sign this Amendment where designated and return the executed copy with the submission of your proposal. This amendment is hereby made part of the referenced RFP as though fully set forth therein. Any questions regarding this amendment should be addressed to Jeffrey Whiting, Contract Officer at (520) 837-4123 or Jeffrey.Whiting@tucsonaz.gov.

JW/lr

REQUEST FOR PROPOSAL AMENDMENT

CITY OF TUCSON
DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726
ISSUE DATE: SEPTEMBER 29, 2016

REQUEST FOR PROPOSAL NO. 161534
RFP AMENDMENT NO. ONE (1)
PAGE NO. 1 OF 1
RFP DUE DATE: NOVEMBER 14, 2016 @ 4:00 P.M. Local AZ Time
RESPONSIBLE CONTRACT OFFICER: JEFFREY WHITING

A SIGNED COPY OF THIS AMENDMENT MUST BE SUBMITTED WITH YOUR SEALED PROPOSAL.
THIS REQUEST FOR PROPOSAL IS AMENDED AS FOLLOWS:

Heavy Equipment, Parts, Accessories, Supplies and Related Services

ITEM NO. ONE (1):

RFP DUE DATE: The Proposal Due Date and Time is hereby **changed**, and shall be **November 14, 2016 at 4:00pm**.

ITEM NO. TWO (2):

RFP PRE-PROPOSAL DATE: The Pre-Proposal Date and Time is hereby **changed**, and shall be on **October 12, 2016 at 10:00am, City Hall 1st Floor Conference Room, 255 W. Alameda, Tucson AZ 85701**.

ALL OTHER PROVISIONS OF THE REQUEST FOR PROPOSAL SHALL REMAIN IN THEIR ENTIRETY.
VENDOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.

Signature Date

Print Name and Title

Company Name

Address

City State Zip

CITY OF TUCSON
REQUEST FOR PROPOSAL

REQUEST FOR PROPOSAL NUMBER:	**161534**
PROPOSAL DUE DATE:	**October 27, 2016 AT 4:00 P.M. LOCAL AZ TIME**
PROPOSAL SUBMITTAL LOCATION:	**Department of Procurement** **255 W. Alameda, 6th Floor, Tucson, AZ 85701**
MATERIAL OR SERVICE:	**HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES**
PRE-PROPOSAL CONFERENCE DATE:	**October 4, 2016**
TIME:	**10:00 A.M. LOCAL AZ TIME**
LOCATION:	**City Hall, 1ST Floor Conference Room** **255 W. Alameda, Tucson, AZ 85701**
CONTRACT OFFICER:	**Jeffrey Whiting**
TELEPHONE NUMBER:	**(520) 837-4123** **Jeffrey.Whiting@tucsonaz.gov**

A copy of this solicitation and possible future amendments may be obtained from our Internet site at: http://www.tucsonprocurement.com/ by selecting the Bid Opportunities link and the associated solicitation number. The City does not mail out Notices of available solicitations via the U.S. Postal Service. Email notifications are sent to those interested offerors who are registered with us and who have selected email as their preferred delivery method. To register, please visit www.tucsonprocurement.com, click on Vendors, then click on Vendor Registration. To update an existing record, click on Vendors, click on What's New?, and read the section titled "Notice of Solicitations." You may also call (520) 791-4217 if you have questions.

Competitive sealed proposals for the specified material or service shall be received by the Department of Procurement, 255 W. Alameda, 6th Floor, Tucson, Arizona 85701, until the date and time cited.

Proposals must be in the actual possession of the Department of Procurement at the location indicated, on or prior to the exact date and time indicated above. Late proposals shall not be considered. The prevailing clock shall be the City Department of Procurement clock.

Proposals must be submitted in a sealed envelope. The Request for Proposal number and the offeror's name and address should be clearly indicated **on the outside** of the envelope. All proposals must be completed in ink or typewritten. Questions must be addressed to the Contract Officer listed above.

******ALERT******

Effective July 1, 2014, the City of Tucson's Small Business Enterprise (SBE) and Disadvantaged Business Enterprise (DBE) Program has moved to the Department of Procurement and has become the Business Enterprise and Compliance Program. To contact them, please call (520) 837-4000 or visit the website at http://www.tucsonprocurement.com/Bidders_Page.aspx and click on SBE or DBE.

JW/lr

PUBLISH DATE: September 27, 2016

INTRODUCTION

The City of Tucson (herein referred to as the City) is requesting proposals from qualified and experienced firms to provide **HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES.** The City requires a contractor who provides a diverse and extensive supply of equipment for purchase and/or rental to various locations in the Tucson metropolitan area.

Heavy equipment will include, but not be limited to, the following equipment categories: Landfill, Construction, and Material Handling. The City has approximately 150 pieces of heavy equipment that falls under the heavy equipment category.

Requirements and qualifications are defined in detail in the Scope of Services Section of this Request for Proposal (RFP). The City seeks a firm that can supply the specified services, supplies, parts, equipment and materials.

NATIONAL CONTRACT REQUIREMENTS

The City, as the Principal Procurement Agency, as defined in Attachment A, has partnered with the National Intergovernmental Purchasing Alliance Company ("National IPA") to make the resultant contract (also known as the "Master Agreement" in materials distributed by National IPA) from this solicitation available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through National IPA's cooperative purchasing program. The City is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with National IPA as a Participating Public Agency in National IPA's cooperative purchasing program. Attachment A contains additional information on National IPA and the cooperative purchasing agreement.

National IPA is the public sector arm of Provista, a multi-industry supply chain improvement company providing group organization and business solutions in various markets nationwide. We partner with sister company, Vizient (formally, Novation), to leverage over $100 billion in annual supply spend to command the best prices on products and services. With corporate, pricing and sales commitments from the Supplier, National IPA provides marketing and administrative support for the Supplier that directly promotes the Supplier's products and services to Participating Public Agencies though multiple channels, each designed to promote specific products and services to Public Agencies on a national basis. Public Agencies benefit from pricing based on aggregate spend and the convenience of a contract that has already been advertised and competed. The Supplier benefits from a contract that allows Participating Public Agencies to directly purchase goods and services without the Supplier's need to respond to additional competitive solicitations. As such, the Supplier must be able to accommodate a nationwide demand for services and to fulfill obligations as a nationwide Supplier and respond to the National IPA documents Attachment A.

The City anticipates spending approximately $8.5 million for Heavy Equipment over the full potential Master Agreement term (5 years). For Fiscal Year 17, the City anticipates purchasing an articulating haul truck and a water wagon. While no minimum volume is guaranteed to the Supplier, the estimated annual volume of Heavy Equipment purchased under the Master Agreement through National IPA is approximately $25,000,000. This projection is based on the current annual volumes among the City of Tucson, other Participating Public Agencies that are anticipated to utilize the resulting Master Agreement to be made available to them through National IPA, and volume growth into other Public Agencies through a coordinated marketing approach between the Supplier and National IPA.

TENTATIVE SCHEDULE OF EVENTS

To the extent achievable, the following schedule shall govern the review, evaluation and award of the contract. The dates are estimates only and the City reserves the right to modify the dates below as necessary.

Activity	**Estimated Finish Date of Activity**
RFP Published	September 27, 2016
Pre-proposal conference	October 4, 2016
Proposal due date	October 27, 2016
Anticipated Vendor Interview / Demonstration	November 28 – December 2, 2016
Anticipated Final negotiation completed	December 19, 2016
Contract award & issuance of purchase order	January 9, 2017

SCOPE OF WORK

A. GENERAL REQUIREMENTS

1. QUALIFIED FIRMS: Offerors should meet the minimum qualifications:

a. Have a strong national presence in the heavy equipment industry.
b. Have a distribution model capable of delivering heavy equipment nationwide.
c. Have a demonstrated sales presence.
d. Be able to meet the minimum requirements of the cooperative purchasing program detailed herein.
e. Be able to provide the full range of products, equipment, parts, materials and services to meet the demands of the City and all agencies that opt to participate in the cooperative purchasing program with the City.

2. PRODUCTION REPORTS: The Contractor or associated dealer must have the ability to furnish the agency ordering equipment and National IPA with MONTHLY progress reports confirming status of delivery dates as agreed upon. These reports shall include, but not be limited to, the following:

a. Copy of Contractor's order to the factory.
b. Copy of factory acknowledgment of order indicating scheduled date of production and shipment from factory.
c. Factory generated computer status reports.
d. Notification to the City of any changes in production or shipping dates.
e. Any special information the Contractor shall have that would affect the timely delivery of the vehicles ordered in accordance with original delivery date promise.

In lieu of written reports submitted to Operations/Fleet Services, the Contractor may provide access to an Internet based on-line order tracking system. Any on-line system provided must provide the information required above. The Contractor must provide all access codes necessary to view this information.

3. DELIVERY and DELIVERY DOCUMENTATION: The following documents are due upon delivery of the completed vehicles to the City:

a. Invoice
b. Warranty document
c. Level 1 Inspection
d. Required manuals
e. RD108-Title

Upon contract award, the Contractor will be required to supply a delivery ticket specifying the purchase order number of each vehicle.

Delivery to the City of Tucson: All deliveries shall be made Monday through Friday from 8:00 a.m. to 3:00 p.m. The Contractor shall be required to give the General Services Department/Fleet Services Division a minimum of 24-hour notification prior to delivery with the anticipated time of delivery and quantity of units to be delivered.

4. VEHICLE INSPECTION: The purchasing agency will assist the Contractor or the authorized dealer in arranging for inspection of each piece of equipment purchased. Each vehicle delivered shall be subject to a complete inspection by the General Services Department/Fleet Services Division staff prior to acceptance. Inspection criteria shall include, but not be limited to, conformity to the specifications, mechanical integrity, quality, workmanship and materials. If delivered equipment is returned to the

Contractor prior to acceptance for any reason, all corrections shall be made without any inconvenience to the City.

5. **TRAINING:** The Contractor shall provide, at no additional cost, training for each basic unit of equipment purchased. This training shall be adequate to the needs of the typical equipment operator and service technician in order to assure proper operation, utilization and maintenance of the equipment supplied. Any manuals necessary to perform the required training shall be furnished by the Contractor. The trainer shall be factory-trained and thoroughly knowledgeable in equipment operator and service technician functions. Training shall be presented in a quality suitable for videotaping. The City reserves the right to videotape part or all of the training provided at no additional cost to the agency.

6. **REPAIRS:** The Contractor will be responsible for transport of vehicles to and from his place of business for repairs, at no additional cost to the City, until such time as the City of Tucson places the vehicle in service. Transport of the vehicle will not be delayed more than one working day from date of notification.

7. **WARRANTIES:** Offeror shall warrant that all equipment and parts furnished in their offer are newly manufactured and free from defects in material and workmanship from the date the City places the equipment into service. Warranty shall also guarantee accepted trade standards of quality, fitness for the intended uses, and conformance to promises or specified specifications. No other express or implied warranty shall eliminate the vendor's liability as stated herein.

Total Maintenance and Repair (TMR's) must be agreed upon and presented to the City prior to the purchase of equipment and/or rebuilds.

8. **VENDOR SERVICE AND MAINTENANCE:** Contractor will provide and maintain a factory authorized parts and service facility within a reasonable distance to the purchasing location.

For the City, the parts and service facility must be within a 125-mile radius of the City of Tucson Price Service Center (4004 S. Park Avenue, 85714). If warranty service is not provided within the Tucson metro area, the Contractor shall be responsible for all costs, including fuel and labor, of transporting vehicle(s) between the City's Price Service Center and the Contractor's service center. The method of transportation must be mutually agreed to by the Contractor and the City prior to transport.

For service calls, the Contractor must provide a response within 60 minutes.

Additional Requirement for City of Tucson Landfill: A service technician must be on-site each morning, Monday-Friday (except holidays) to service and maintain the City of Tucson landfill equipment located at 5300 E. Los Reales Road, Tucson, AZ.

9. **VEHICLE RECALL NOTICES:** In the event of any recall notice, technical service bulletin, or other important notification affecting a vehicle purchased from this contract, a notice shall be sent to the purchasing agency's representative. For the City of Tucson, all notices shall be sent to General Services, Fleet Services Division, 4004 S. Park Avenue, Building 1, Tucson, AZ 85714.

B. EQUIPMENT AND PRODUCT REQUIREMENTS:

1. **EQUIPMENT:** A complete and comprehensive line of new and used Heavy Equipment to support various needs of agencies is requested. The categories include, but are not limited to, the following:

Landfill Equipment:
- Landfill Dozers
- Landfill Compactors
- Landfill Scraper

Material Handling
- Fork Lift
- Crane / Wheeled
- Crane / Track

Construction Equipment
- Air Compressor
- Articulated Dump Truck
- Asphalt Cold Planer
- Asphalt Rotary Mixer
- Bucket Truck
- Cement Mixer
- Chip Spreader
- Crack Sealer
- Dozers **/** Tracked
- Dozers / Wheeled
- Dump Trucks
- Excavators / Tracked
- Excavators / Wheeled
- Ice Resurfacer
- Loaders / Backhoe / Wheeled
- Loaders / Tracked
- Loaders / Wheeled
- Motor Graders
- Patcher Truck
- Paver / Tracked
- Paver / Wheeled
- Rollers / Drum / Vibrate
- Rollers / wheeled / Pneumatic
- Rollers / Drum / Wheeled
- Scrapers
- Skid Steer Loaders
- Soil Compactors
- Sweeper / Scrubber
- Sweeper / Street
- Sweeper / walkway
- Telehandlers
- Trailer / Tilt
- Trailer / Flatbed
- Trailer / Drop Neck
- Trailer / Utility
- Trencher
- Water Truck
- Water Wagon

2. **CURRENT EQUIPMENT AND PRODUCTS:** All equipment and products being offered in response to this solicitation shall be in current and ongoing production; shall be formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.

3. **PRICING:** Offerors shall provide a verifiable pricing model that may include, but not be limited to, a discount from a verifiable price index, a reduced net pricing schedule, a hybrid or other supplier specific pricing model. The pricing model shall remain firm and will include all charges that may be incurred in fulfilling requirement(s) for the twelve-month period following contract award. Where applicable, pricing shall be determined by applying Offerors discounts to the prices listed on their manufacturer's price lists, retail price sheets, catalogs or by utilizing the reduced net pricing schedule.

C. SERVICE REQUIREMENTS

1. SERVICES: The City is seeking the inclusion of value-add services. These services may be provided by the authorized manufacturer or dealer and sample categories include, but are not limited to:

a. **Repair Services:** The ability to provide repair services through authorized manufacturer's facilities or dealers. Repair services may include, but not be limited to, hourly rate for repairs in shop, hourly rate for repairs in field, weld repairs, machining work, etc.

b. **Maintenance Services:** The ability to provide various maintenance services and options through authorized manufacturer's facilities or dealers. Maintenance services may include scheduled services based upon the manufactures recommended guidelines to include, but not be limited to, daily scheduled services, daily fuel dispensing, major/minor machine cleaning, etc. Maintenance services may also include mobile maintenance.

For landfill equipment, if the City has purchased the maintenance services from the manufacturer's dealer, the City requires loaner or rental equipment if the machine is down for more than 24 hours. If the equipment is down due to no fault of the City, the loaner shall be provided at no additional cost.

c. **Warranties:** The ability to provide a full range of extended warranties.

d. **Lease/Financing Options:** The ability to provide financing options. Identify direct or third party financing or both.

e. **Trade-In or Buyback Options:** The ability to trade-in used equipment or obtain a guaranteed buy back price at the time of purchase.

f. **Rental:** The ability to rent heavy equipment through the manufacturer or dealer.

g. **Incorporation of New Business Enterprises:** The ability to incorporate certain business enterprises (as requested by the City or Participating Agencies) into your distribution, and sales channels.

h. **Green/Sustainability Program:**
1. Policies: Efforts and policies pertaining to green and sustainability.
2. Products: Impact on product offerings.
3. Distribution: Impact in distribution.
4. Certifications: The industry recognized certifications and standards obtained.

i. **Training & Education:** The ability to provide on-site and/or online training and educational programs/seminars.

j. **Customer Support Services:** The policies on replacements, returns, restocking charges, after hours service, after sales support, out of stock, order tracing, technical feedback, quality assurance for orders and drop shipments.

k. **Other Services/Options:** Other value-add services not included in above categories.

INSTRUCTIONS TO OFFERORS

1. **DEFINITION OF KEY WORDS USED IN THE SOLICITATION:**
   For purposes of this solicitation and subsequent contract, the following definitions shall apply:
   City: The City of Tucson, Arizona
   Contract: The legal agreement executed between the City and the Contractor/Consultant. The Contract shall include this RFP document incorporated herein by reference, all terms, conditions, specifications, scope of work, Amendments, the Contractor's offer and negotiated items as accepted by the City.
   Contractor/Consultant: The individual, partnership, or corporation who, as a result of the competitive solicitation process, is awarded a contract by the City.
   Contract Representative: The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and is responsible for monitoring and overseeing the Contractor's performance under this Contract.
   Director of Procurement: The contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.
   May: Indicates something that is not mandatory but permissible.
   Offeror: The individual, partnership, or corporation who submits a proposal in response to a solicitation.
   Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements, if they constitute a substantive requirement, may, at the City's sole discretion, result in the rejection of a proposal as non-responsive.
   Should: Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.

2. **PRE-PROPOSAL CONFERENCE:** If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Attendance at this conference is not mandatory. Written minutes and/or notes will not be available, therefore attendance is encouraged. If an Offeror is unable to attend the Pre-Proposal Conference questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Proposal due date to the Contract Officer listed above. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Proposal. Oral statements or instructions will not constitute an amendment to this Request for Proposal.

3. **INQUIRIES:** Any question related to the Request for Proposal shall be directed to the Contract Officer whose name appears above. An offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Officer may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, at least five days prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such, otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.

4. **AMENDMENT OF REQUEST FOR PROPOSAL:** The Offeror shall acknowledge receipt of a Request for Proposal Amendment by signing and returning the document by the specified due date and time.

5. **FAMILIARIZATION OF SCOPE OF WORK:** Before submitting a proposal, each offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the Offeror.

There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

6. PREPARATION OF PROPOSAL:

A. All proposals shall be on the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.
B. At a minimum, your proposal should include the signed Offer and Acceptance form, signed copies of any solicitation amendments, completed Price Page and your response to all evaluation criteria.
C. The Offer and Acceptance page shall be signed by a person authorized to submit an offer. An authorized signature on the Offer and Acceptance page, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to sell the good and/or service specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.
D. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
E. In case of error in the extension of prices in the proposal, unit price shall govern when applicable.
F. Periods of time, stated as a number of days, shall be in calendar days.
G. It is the responsibility of all offerors to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
H. The City shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
I. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.

7. PAYMENT DISCOUNTS: Payment discount periods shall be computed from the date of receipt of the material/service or correct invoice, whichever is later, to the date City's payment warrant is mailed. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. Payment discounts of twenty-one calendar days or more shall be deducted from the proposed price in determining the price points. However, the City shall be entitled to take advantage of any payment discount offered by a vendor provided payment is made within the discount period. The payment discount shall apply to all purchases and to all payment methods.

8. TAXES: The City of Tucson is exempt from federal excise tax, including the federal transportation tax.

9. PROPOSAL/SUBMITTAL FORMAT: An original and 6 copies (7 total) of each proposal should be submitted on the forms and in the format specified in the RFP. Offerors shall also submit one electronic copy of the proposal on cd, disc or zip disc in MS Office 2003 or .pdf format. Any confidential information shall be submitted on a separate cd, disc or zip disc. The original copy of the proposal should be clearly labeled "Original" and shall be single-sided, three hole punched and in a binder. The material should be in sequence and related to the RFP. **The sections of the submittal should be tabbed, clearly identifiable and should include a minimum of the following sections: the completed Offer and Acceptance Form, all signed Amendments, a copy of this RFP document and the Offeror's response to the Evaluation Criteria including the completed Price Page.** Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.

10. EXCEPTIONS TO CONTRACT PROVISIONS: A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his designee. If a proposal or offer is returned with

modifications to the contract provisions that are not expressly approved in writing by the Director or his designee, the contract provisions contained in the City's Request for Proposal shall prevail.

11. PUBLIC RECORD: All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.

12. CONFIDENTIAL INFORMATION: The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.

13. CERTIFICATION: By signature on the Offer and Acceptance page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Offeror certifies:

A. The submission of the offer did not involve collusion or other anti-competitive practices.
B. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
C. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
D. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Offeror to the Contract.

14. WHERE TO SUBMIT PROPOSALS: In order to be considered, the Offeror must complete and submit its proposal to the City of Tucson Department of Procurement at the location indicated, prior to or at the exact date and time indicated on the Notice of Request for Proposal page. The Offeror's proposal shall be submitted in a sealed envelope. The words "SEALED PROPOSAL" with the REQUEST FOR PROPOSAL TITLE, REQUEST FOR PROPOSAL NUMBER, PROPOSAL DUE DATE AND TIME and OFFEROR'S NAME AND ADDRESS shall be written on the envelope.

15. LATE PROPOSALS: Late proposals will be rejected.

16. OFFER AND ACCEPTANCE PERIOD: In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the proposal due date and time.

17. WITHDRAWAL OF PROPOSAL: At any time prior to the specified solicitation due date and time, an offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.

18. DISCUSSIONS: The City reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.

19. CONTRACT NEGOTIATIONS: Exclusive or concurrent negotiations may be conducted with responsible offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any

property rights to the successful offeror. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified firm(s).

20. VENDOR APPLICATION: Prior to the award of a Contract, the successful offeror shall register with the City's Department of Procurement. Registration can be completed at http://www.tucsonprocurement.com/ by clicking on Vendor Services. Please note that email notifications of newly published solicitations and amendments will be provided to those vendors that select email as their preferred delivery method in their vendor record.

21. CITY OF TUCSON BUSINESS LICENSE: It is the responsibility of the Contractor to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at http://www.tucsonaz.gov/etax. For questions contact the City's Business License Section at (520) 791-4566 or email at tax-license@tucsonaz.gov.

22. UPON NOTICE OF INTENT TO AWARD: The apparent successful offeror shall sign and file with the City, within five (5) days after Notice of Intent to Award, all documents necessary to the successful execution of the Contract.

23. AWARD OF CONTRACT: Notwithstanding any other provision of the Request for Proposal, the City reserves the right to:
(1) waive any immaterial defect or informality; or
(2) reject any or all proposals, or portions thereof; or
(3) reissue the Request for Proposal.

A response to this Request for Proposal is an offer to contract with the City based upon the terms, conditions and Scope of Work contained in the City's Request for Proposal. Proposals do not become contracts unless and until they are executed by the City's Director of Procurement and the City Attorney. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a Contract Amendment, or by mutually agreed terms and conditions in the Contract documents.

24. PROPOSAL RESULTS: The name(s) of the successful offeror(s) will be posted on the Procurement Department's Internet site at http://www.tucsonprocurement.com/ upon issuance of a Notice of Intent to Award or upon final contract execution.

25. PROTESTS: A protest shall be in writing and shall be filed with the Director of Procurement. A protest of a Request for Proposal shall be received at the Department of Procurement not less than five (5) working days before the Request for Proposal due date. A protest of a proposed award or of an award shall be filed within ten (10) days after issuance of notification of award or issuance of a notice of intent to award, as applicable. A protest shall include:

A. The name, address, and telephone number of the protestant;
B. The signature of the protestant or its representative;
C. Identification of the Request for Proposal or Contract number;
D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and
E. The form of relief requested.

PROPOSAL EVALUATION REQUIREMENTS

I. PROPOSAL EVALUATION CRITERIA – (listed in relative order of importance)

A. Method of Approach

B. Price Proposal

C. Qualifications & Experience

II. REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA: The narrative portion and the materials presented in response to this Request for Proposal should be submitted in the same order as requested and must contain, at a minimum, the following:

A. Method of Approach

1) National Program

a. Provide a response to the national program by including a detailed response to Attachment A, Exhibit A, National IPA Response for National Cooperative Contract. Provide any proposed exceptions to Attachment A, Exhibit B, National IPA Administration Agreement for the City's consideration.

2) Distribution Network

a. Describe how your firm proposes to distribute the equipment, accessories, parts, repair and services nationwide. Describe any parts the distribution network will have "on-hand" and those that must be ordered.

b. Identify all other companies/distributors/dealers that will be involved in processing, handling or shipping the products/services to Participating Public Agencies.

c. Provide the number, size and location of your firm's manufacturing facilities, distribution facilities, warehouses, service facilities and dealer networks as applicable. State the estimated dollar value of your inventory. Include a map showing heavy equipment distribution network coverage nationwide.

d. Describe your dealer network and their role in providing products, services, etc. under this contract.

3) Product

a. Provide a detailed written response illustrating how the equipment, accessories, parts, supplies and related services offered will meet the requirements of this solicitation. Offerors shall identify and describe their heavy equipment categories. For each proposed category, describe in detail and provide at a minimum the following types of information:

1. Identification and description of equipment categories offered.
2. Identification and description of sub categories.
3. Identify accessories, parts, services, etc. that are available through the manufacturer.
4. Identify accessories, parts, services, etc. that are available through the authorized dealer.
5. Provide descriptions, catalog(s) or website links for accessories, parts and supplies offered.

6. Do you offer color choices for each product listed?

b. Describe descriptions, catalog(s) or website links for accessories, parts and supplies offered, including:
   1. types of warranties available (by category or equipment)
   2. description of your warranty claims procedures.
   3. description of your policy addressing warranty issues related to:
      i. Major Component Failures
      ii. Engineering Deficiencies
      iii. Describe your firm's standard response time to address warranty failure issues.

c. Is there a dedicated support representative that the City should contact? If yes, provide their name and complete contact information.

d. Provide information which details the costs, types, and extents of available extended warranty coverage for heavy equipment.

e. Describe how your firm is anticipating and ensuring compliance with the Environmental Protection Agency (EPA) emission changes.

f. Submit all information that will aid the City in evaluating your proposal

4) Service

a. Provide a detailed written response illustrating how your firm or the authorized dealers will provide services to meet the requirements of this solicitation. Offerors shall provide the proposed services that will meet the Service Requirements section of the Scope of Work outlined in this solicitation. For each proposed category, describe and/or provide details explaining your capabilities. In your response include information such as:

   1. Provide detailed information explaining your service capabilities.

   2. Provided detailed information explaining the service capabilities of your authorized dealers.

   3. Describe the maintenance programs offered. If a maintenance program is selected by the City, will your firm provide a loaner or rental machine if the machine is down for more than 24 hours?

   4. Describe your training programs, addressing, at a minimum, the following:
      i. How will equipment training be conducted?
      ii. Describe the training curriculum for the equipment operators.
      iii. Describe the training curriculum for the service technicians.
      iv. How will you accommodate various work shifts?
      v. What type of documentation is provided with the proposed training?
      vi. Is a "train the trainer" program available? Is this training different than the regular initial training? Can training sessions be recorded for future use by the agency?
      vii. Is the training provided by the manufacturer, dealer or both?

5) Ordering and Invoices
   a. Describe your order process.

   b. How do agencies work with your firm to determine appropriate equipment needs?

   c. Describe the equipment delivery process and your delivery commitment.

   d. What is your standard equipment delivery timeframes?

   e. How does your firm communicate order cut off dates to your customers?

   f. Identify and describe any exceptions or challenges.

   g. Provide details of the capabilities of your E-Commerce website including ability to display contract pricing, on-line ordering, order tracking, search options, order history, technical assistance, lists, technical data and documentation, identification of alternate green products, etc.

   h. Describe your invoicing process. Is electronic invoicing available? Is summary invoicing available? Are there other options on how an agency receives an invoice? Submit sample invoices.

   i. Describe how problems – such as a customer ordering a wrong product; a customer receiving a defective or wrong product; etc. – are resolved.

   j. Describe how your firm measures performance including identification, calculation, tracking and reporting of measurements.

   k. Titles- will equipment be provided with proof of registration with the state?

   l. Will each product be delivered free of distributor advertising?

6) Other
   a. Describe any government rebate programs applicable.

B. Price Proposal

1) Provide a Price Proposal. Submit the Price Proposal as a separate and clearly identified document. The Price Proposal shall minimally include the following: Offerors shall submit pricing based on the Equipment, Product Requirements and Service Requirement categories identified on the Scope of Services. Pricing should be based upon a verifiable pricing structure, such as a fixed percent discount from an index or indices or established price list, etc. Where applicable, Offerors shall provide pricing for all product and services offered. Describe how pricing is determined for a base model equipment purchase and how pricing is determined for options, accessories and services. Identify the price list being used and include an electronic copy (or website link) so that net prices can be determined.

   The price proposal should include pricing for equipment, accessories and options, parts, service and any additional value-add goods or services available such as financing, rental and used equipment for purchase from the vendor. Vendors must indicate if discounts are based on manufacturer price lists or dealer price lists.

In order to allow ordering flexibility for equipment that is mounted to a chassis, Offerors should provide a separate pricing structure for each the chassis and the truck, in addition to a total pricing structure for the complete piece of equipment.

2) Based on your distribution network, explain how freight is calculated.

3) The discount structure provided by the supplier is intended to remain constant throughout the term of the Contact. Discuss how often price lists are updated and provide a listing of price list changes that have taken place over the last 3 years. Discuss any known future price list changes or industry changes that will effect pricing over the next 5 years.

4) State if pricing is most favorable offered to government agencies. Describe how your firm will ensure this contract will continually offer the best pricing available to Participating Public Agencies.

5) Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

6) Provide information on any ordering methods – such as electronic ordering or payment via pCard or EFT – or other criteria which entitle the using agency to additional discounts.

7) As stated in the Instructions to Offerors, 7. Discounts, the price(s) herein can be discounted by _____%, if payment is made within _____ days. These payment terms shall apply to all purchases and to all payment methods.

8) Will payment be accepted via commercial credit card? _____Yes _____No
   a. If yes, can commercial payment(s) be made online? _____Yes _____No
   b. Will a third party be processing the commercial credit card payment(s)? ___Yes ____No
   c. If yes, indicate the flat fee per transaction $_____ (as allowable, per Section 5.2.E of Visa Operating Regulations).
   d. If "no" to above, will consideration be given to accept the card? _____Yes _____No

9) Does your firm have a City of Tucson Business License? _____Yes _____No
   a. If yes, please provide a copy of your City of Tucson Business license.

C. Qualifications & Experience

1) Provide a brief history and description of your company. Describe your market position in the local government, educational and medical market spaces.

2) Describe your dealer network and their role in providing products and services under this contract.

3) Provide a listing of key personnel who will be assigned to the City's contract. Include their title within your organization and the description of the type of work they may perform. Please identify an executive corporate sponsor who will be responsible for the overall management of the awarded Master Agreement.

4) Summarize your experience in providing equipment, products and services similar to that outlined in the Scope of Work. Provide a minimum of three references for which you have provided similar products and services. References from other public agencies, particularly municipal governments, are preferred. Please include company name, address, phone, email, and contact person.

5) Please submit any additional information that you feel is applicable to your qualifications and experience.

6) Provide the qualifications of technicians that will be servicing equipment throughout the nation.

7) Describe your quality control program including but not limited to: what is your quality control procedures, who performs the quality control inspection? What are the qualifications of the inspectors? What items are inspected / tested? Etc.

III. GENERAL

A. Shortlist:

The City reserves the right to shortlist the offerors based on the stated criteria. However, the City may determine that shortlisting is not necessary.

B. Interviews:

The City reserves the right to conduct interviews with some or all of the offerors at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the offeror for the costs associated with the interview process.

C. Additional Investigations:

The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any offeror submitting a proposal.

D. Prior Experience:

Experiences with the City and entities that evaluation committee members represent and that are not specifically mentioned in the solicitation response may be taken into consideration when evaluating offers.

E. Multiple Awards:

To provide adequate contract coverage, at the City's sole discretion, multiple awards may be made.

SPECIAL TERMS AND CONDITIONS

1. **FEDERAL, STATE AND LOCAL TAXES, LICENSES AND PERMITS**: The Supplier shall comply with all Federal, State, and local licenses and permits required for the operation of the business conducted by the Supplier as applicable to this Contract. The Supplier shall, at no expense to the City, National IPA, or other Participating Public Agencies, procure and keep in force during the entire period of the Agreement all such permits and licenses.

2. **SUBCONTRACTORS:** No subcontract shall be made by the contractor with any other party for furnishing any of the services herein contracted for without the advance written approval of the Department of Procurement. All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. Contractor is responsible for contract performance whether or not subcontractors are used.

3. **FOB DESTINATION FREIGHT PREPAID:** Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.

4. **INSURANCE:** The Contractor agrees to:

A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least 30 days prior to termination or cancellation in coverage in any policy, and 10 days notice for cancellation due to non-payment in premium.

B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract. The insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.

C. Provide and maintain minimum insurance limits as applicable.

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	$1,000,000
General Aggregate (including Per Project)	$2,000,000
Products & Completed Operations Aggregate	$2,000,000
Personal and Advertising Injury	$1,000,000
Blanket Contractual Liability	$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	$1,000,000

III. Workers' Compensation (applicable to the State of Arizona)*[1]	
Per Occurrence	Statutory
Employer's Liability	$1,000,000
Disease Each Employee	$1,000,000
Disease Policy Limit	$1,000,000
IV. Garage Liability & Garage Keepers Liability - In addition to I, II, III	
Garage Liability	$1,000,000
Garage Keeper's Liability – Direct Primary Coverage	
Each Auto	$ 500,000
Each Occurrence	$1,000,000

*[1] Sole Proprietor/Independent Contractor designation is given to those who desire to waive their rights for workers' compensation coverage and benefits as outlined in ARS§ 23-901 and specifically ARS § 23-961 (O). If applicable, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.

D. ADDITIONAL INSURANCE REQUIREMENTS: Policies shall be endorsed to include the following provisions:

1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Contractor (including Worker's Compensation).
2. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

E. NOTICE OF COVERAGE MODIFICATIONS: Any changes material to compliance with this contract in the insurance policies above shall require 10 days written notice from the Contractor to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.

F. ACCEPTABILITY OF INSURERS: Contractors insurance shall have an "A.M. Best" rating of not less than A:VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

G. VERIFICATION OF COVERAGE: Contractor shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

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

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

H. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies **or** Contractor shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

I. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance.

5. **PAYMENTS:** All payments made by the City of Tucson for goods or services will be made to the vendor named on the Offer and Acceptance form. If you do not wish payment to be made to that address, you must submit an attached sheet indicating the proper mailing address with this bid.

6. **RIGHT TO TERMINATE FOR CHANGE IN OWNERSHIP OR MATERIAL RESTRUCTURE OF THE CONTRACTOR:** In addition to the Termination of Contract clause in the Standard Terms and Conditions section of this solicitation and resulting contract, the City reserves the right to cancel the whole or part of this contract within 60 days written notice of the completion of any material change of ownership in the Contractor's company, including its sale, merger, consolidation or dissolution.

7. **TERM AND RENEWAL**: The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.

Any job orders, project agreements or maintenance agreements executed against this Master Agreement during the effective term may survive beyond the expiration of the Master Agreement as established and agreed to by both parties.

8. **PRICE ADJUSTMENT:** The City will review fully documented requests for price adjustment after any Contract has been in effect for one (1) year. Any price adjustment will only be made at the time of Contract renewal and/or extension and will be a factor in the extension review process. The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the City. Any price adjustment will be effective upon the effective date of the Contract extension.

9. **MODIFICATION OF TERMS:** A Participating Agency who wishes to piggyback on this Contract may present alternate terms to the Contractor as a condition of their intended purchase transaction. If the Contractor chooses to accept the alternate terms, it shall be as a condition of the Participating Agency's purchase transaction and shall not constitute a modification of this contract.

10. **COOPERATIVE PURCHASING:** Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement or registered with National IPA are eligible to participate in any subsequent Contract. See http://www.tucsonprocurement.com/coop_partners.aspx and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See http://www.maricopa.gov/Materials/PubDocuments/SAVE-members.pdf for a listing of participating agencies. The parties agree that these lists are subject to change.

Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The Contractor may negotiate additional expenses incurred as a result of participating agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). The City shall not be responsible for any disputes arising out of transactions made by others.

The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Procurement upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.

2. **AFFIRMATIVE ACTION:** Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.

3. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.

4. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.

5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.

6. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.

7. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.

8. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.

9. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.

10. **CONTRACT AMENDMENTS:** The Procurement Department has the sole authority to:
    A. Amend the contract or enter into supplemental verbal or written agreements;
    B. Grant time extensions or contract renewals;
    C. Otherwise modify the scope or terms and provisions of the contract.

    This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

11. **CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

12. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.

13. DUPLEXED/RECYCLED PAPER: In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.

14. EQUAL PAY: The Contractor shall comply with the applicable provisions of the Equal Pay Act of 1963 (Pub.L. 88-38, 29 U.S.C. section 206(d)); Title VII of the Civil Rights Act of 1964 (Pub.L. 88-352, 42 U.S.C. 2000e *et.seq.*; and, the Lily Ledbetter Fair Pay Act of 2009 (Pub.L. 111-2).

15. EXCLUSIVE POSSESSION: All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.

16. 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) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

17. FORCE MAJEURE: Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

18. GRATUITIES: The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

19. HUMAN RELATIONS: Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.

20. INDEMNIFICATION: To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractors agrees to waive all rights of subrogation against the City of Tucson, it's agents, representatives, officers,

directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.

Contractor is responsible for compliance with the Patient Protection and Affordable Care Act (ACA), for its employees in accordance with 26 CFR §54. 4980H. Additionally, Contractor is responsible for all applicable IRS reporting requirements related to ACA. If Contractor or any of Contractor's employees is certified to the City as having received a premium tax credit or cost sharing reduction which contributes to or triggers an assessed penalty against the City, or Contractor fails to meet reporting requirements pursuant to section 6056 resulting in a penalty to City, Contractor indemnifies City from and shall pay any assessed tax penalty.

21. **INDEPENDENT CONTRACTOR:** It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.

    The Contractor shall not be entitled to compensation in the form of salaries, holidays, paid vacation, sick days, or pension contributions by the City. The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses. Contractor is responsible for compliance with the Affordable Care Act for Contractor and any of Contractor's employees.

22. **INSPECTION AND ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.

23. **INTERPRETATION-PAROLE EVIDENCE:** This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.

24. **LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

25. **LIENS:** All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.

26. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.

27. **NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.

28. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

29. **PAYMENT:** The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

    Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

30. **PROTECTION OF GOVERNMENT PROPERTY:** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

31. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.

32. **RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.

33. **RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.

34. **RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.

35. **RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

36. **SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.

37. **SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.

38. **SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

39. **SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.

40. **TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

41. TITLE AND RISK OF LOSS: The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

42. WARRANTIES: Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

OFFER AND ACCEPTANCE

OFFER

TO THE CITY OF TUCSON:
The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

_____
Company Name

_____
Address

_____
City State Zip

_____
Signature of Person Authorized to Sign

_____
Printed Name

_____
Title

Name: _____

Title: _____

Phone: _____

Fax: _____

E-mail: _____

ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. 161534-_____.

CITY OF TUCSON, a municipal corporation

Approved as to form this _____ day of _____ , 2016.

Awarded this _____ day of _____ , 2016.

_____
As Tucson City Attorney and not personally

_____
Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM
As Director of Procurement and not personally

ATTACHMENTS

ATTACHMENT A: National IPA Exhibits

Attachment A

Requirements for National Cooperative Contract
To be Administered by
National Intergovernmental Purchasing Alliance Company

The following documents are used in evaluating and administering national cooperative contracts and are included for Supplier's review and response.

National IPA Exhibit A – NATIONAL IPA RESPONSE FOR NATIONAL COOPERATIVE CONTRACT

National IPA Exhibit B – NATIONAL IPA ADMINISTRATION AGREEMENT, EXAMPLE

National IPA Exhibit C – NATIONAL IPA MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT, EXAMPLE

National IPA Exhibit D – NATIONAL IPA PRINCIPAL PROCUREMENT AGENCY CERTIFICATE, EXAMPLE

National IPA Exhibit E – NATIONAL IPA CONTRACT SALES REPORTING TEMPLATE

National IPA Exhibit F – NATIONAL IPA ADVERTISING COMPLIANCE REQUIREMENT

1.0 Scope of National Cooperative Contract

1.1 Requirement

The City of Tucson (hereinafter defined and referred to as "Principal Procurement Agency"), on behalf of itself and the National Intergovernmental Purchasing Alliance Company ("National IPA"), is requesting proposals for Heavy Equipment, Parts, Accessories, Supplies and Related Services. The intent of this Request for Proposal is that any contract between Principal Procurement Agency and Supplier resulting from this Request for Proposal (hereinafter defined and referred to as the "Master Agreement") be made available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through National IPA's cooperative purchasing program. The Principal Procurement Agency has executed a Principal Procurement Agency Certificate with National IPA (an example of which is included as Exhibit D) and has agreed to pursue the Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with National IPA as a Participating Public Agency in National IPA's cooperative purchasing program. Registration with National IPA as a Participating Public Agency is accomplished by Public Agencies entering into a Master Intergovernmental Cooperative Purchasing Agreement, an example of which is attached as Exhibit C. The terms and pricing established in the resulting Master Agreement between the Supplier and the Principal Procurement Agency will be the same as that available to Participating Public Agencies through National IPA.

All transactions, purchase orders, invoices, payments etc., will occur directly between the Supplier and each Participating Public Agency individually, and neither National IPA, any Principal Procurement Agency nor any Participating Public Agency, including their respective agents, directors, employees or representatives, shall be liable to Supplier for any acts, liabilities, damages, etc., incurred by any other Participating Public Agency.

This Exhibit A defines the expectations for qualifying Suppliers based on National IPA's requirements to market the resulting Master Agreement nationally to Public Agencies. Each section in this Exhibit A refers to the capabilities, requirements, obligations, and prohibitions of competing Suppliers on a national level in order to serve Participating Public Agencies through National IPA.

These requirements are incorporated into and are considered an integral part of this RFP. National IPA reserves the right to determine whether or not to make the Master Agreement awarded by the Principal Procurement Agency available to Participating Public Agencies.

1.2 Marketing, Sales and Administrative Support

During the term of the Master Agreement National IPA intends to provide marketing, sales and administrative support for Supplier pursuant to this section 1.2 that directly promotes the Supplier's products and services to Participating Public

Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national basis.

The National IPA marketing team will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through:

A. Marketing collateral (print, electronic, email, presentations)
B. Website development and support
C. Trade shows/conferences/meetings
D. Advertising
E. Social Media
F. Sales Team Support

The National IPA sales teams will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through:

A. Individual sales calls
B. Joint sales calls
C. Communications/customer service
D. Training sessions for Public Agency teams
E. Training sessions for Supplier teams

The National IPA contracting teams will work in conjunction with Supplier to promote the Master Agreement to both existing Participating Public Agencies prospective Public Agencies through:

A. Serving as the subject matter expert for questions regarding joint powers authority and state statutes and regulations for cooperative purchasing
B. Training sessions for Public Agency teams
C. Training sessions for Supplier teams
D. Regular business reviews to monitor program success
E. General contract administration

Suppliers are required to pay an administrative fee of 1.5% of the greater of the Contract Sales under the Master Agreement and Guaranteed Contract Sales under this Request for Proposal. Supplier will be required to execute the National IPA Administration Agreement (refer to Exhibit B).

Capitalized terms not otherwise defined herein shall have the meanings given to them in the Master Agreement or in the National Intergovernmental Purchasing Alliance Company Administration Agreement between Supplier and National IPA (the "National IPA Administration Agreement")

1.3 Estimated Volume

The dollar volume purchased under the Master Agreement is estimated to be approximately $25,000,000 annually. While no minimum volume is guaranteed to Supplier, the estimated annual volume is projected based on the current annual volumes among the Principal Procurement Agency, other Participating Public Agencies that are anticipated to utilize the resulting Master Agreement to be made available to them through National IPA, and volume growth into other Public

Agencies through a coordinated marketing approach between Supplier and National IPA.

1.4 Award Basis

The basis of any contract award resulting from this RFP made by Principal Procurement Agency will be the basis of award on a national level through National IPA. If multiple suppliers are awarded by Principal Procurement Agency under the Master Agreement, those same suppliers will be required to extend the Master Agreement to Participating Public Agencies through National IPA. Utilization of the Master Agreement by Participating Public Agencies will be at the discretion of the individual Participating Public Agency. Certain terms of the Master Agreement specifically applicable to the Principal Procurement Agency are subject to modification for each Participating Public Agency as Supplier, such Participating Public Agency and National IPA shall agree. Participating Agencies may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (i.e. invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and woman owned businesses, historically underutilized business, governing law, etc.). Any supplemental agreement developed as a result of the Master Agreement is exclusively between the Participating Agency and the Supplier (Contract Sales are reported to National IPA).

1.5 Objectives of Cooperative Program

This RFP is intended to achieve the following objectives regarding availability through National IPA's cooperative program:

A. Provide a comprehensive competitively solicited and awarded national agreement offering the Products covered by this solicitation to Participating Public Agencies;
B. Establish the Master Agreement as the Supplier's primary go to market strategy to Public Agencies nationwide;
C. Achieve cost savings for Supplier and Public Agencies through a single solicitation process that will reduce the Supplier's need to respond to multiple solicitations and Public Agencies need to conduct their own solicitation process;
D. Combine the aggregate purchasing volumes of Participating Public Agencies to achieve cost effective pricing.

2.0 REPRESENTATIONS AND COVENANTS

As a condition to Supplier entering into the Master Agreement, which would be available to all Public Agencies, Supplier must make certain representations, warranties and covenants to both the Principal Procurement Agency and National IPA designed to ensure the success of the Master Agreement for all Participating Public Agencies as well as the Supplier.

2.1 Corporate Commitment

Supplier commits that (1) the Master Agreement has received all necessary corporate authorizations and support of the Supplier's executive management, (2) the Master Agreement is Supplier's primary "go to market" strategy for Public Agencies, (3) the Master Agreement will be promoted to all Public Agencies, including any existing customers, and Supplier will transition existing customers, upon their request, to the Master Agreement, and (4) that the Supplier has read and agrees to the terms and

conditions of the Administration Agreement with National IPA and will execute such agreement concurrent with and as a condition of its execution of the Master Agreement with the Principal Procurement Agency. Supplier will identify an executive corporate sponsor and a separate national account manager within the RFP response that will be responsible for the overall management of the Master Agreement.

2.2 Pricing Commitment

Supplier commits the not-to-exceed pricing provided under the Master Agreement pricing is its lowest available (net to buyer) to Public Agencies nationwide and further commits that if a Participating Public Agency is eligible for lower pricing through a national, state, regional or local or cooperative contract, that the Supplier will match such lower pricing to that Participating Public Agency under the Master Agreement.

2.3 Sales Commitment

Supplier commits to aggressively market the Master Agreement as its go to market strategy in this defined sector and that its sales force will be trained, engaged and committed to offering the Master Agreement to Public Agencies through National IPA nationwide. Supplier commits that all Master Agreement sales will be accurately and timely reported to National IPA in accordance with the National IPA Administration Agreement. Supplier also commits that its sales force will be compensated, including sales incentives, for sales to Public Agencies under the Master Agreement in a consistent or better manner compared to sales to Public Agencies if the Supplier were not awarded the Master Agreement.

3.0 SUPPLIER QUALIFICATIONS

Supplier must supply the following information in order for the Principal Procurement Agency to determine Supplier's qualifications to extend the resulting Master Agreement to Participating Public Agencies through National IPA.

3.1 Company

A. Brief history and description of your company.
B. Total number and location of sales persons employed by your company.
C. Number and location of support centers (if applicable).
D. Annual sales for the three previous fiscal years.
E. Submit your FEIN and Dunn & Bradstreet report.

3.2 Distribution, Logistics

A. Describe how your company proposes to distribute the products/service nationwide.
B. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.
C. Provide the number, size and location of your company's distribution facilities, warehouses and retail network as applicable.
D. State any return and restocking policy and fees, if applicable, associated with returns.
E. Describe the full line of products and services offered by your company.

3.3 Marketing and Sales

A. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as your company's primary go to market strategy for Public Agencies to your teams nationwide, to include, but not limited to:
   i. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days
   ii. Training and education of your national sales force with participation from the executive leadership of your company, along with the National IPA team within first 90 days

B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Pubic Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:
   i. Creation and distribution of a co-branded press release to trade publications
   ii. Announcement, contract details and contact information published on the Supplier company website within first 90 days
   iii. Design, publication and distribution of co-branded marketing materials within first 90 days
   iv. Commitment to attendance and participation with National IPA at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement
   v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by National IPA for partner suppliers. Booth space will be purchased and staffed by your company. In addition, you commit to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by National IPA.
   vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement
   vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)
   viii. Dedicated National IPA internet web-based homepage on Supplier website with:
      - National IPA standard logo;
      - Copy of original Request for Proposal;
      - Copy of contract and amendments between Principal Procurement Agency and Supplier;
      - Summary of Products and pricing;
      - Marketing Materials
      - Electronic link to National IPA's website including the online registration page;
      - A dedicated toll free number and email address for National IPA

C. Describe how your company will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through National IPA. Include a list of current cooperative contracts (regional and

national) your company holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

D. Acknowledge that your company agrees to provide its company/corporate logo(s) to National IPA and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of National IPA logo will require permission for reproduction, as well.

E. Supplier is responsible for proactive direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by National IPA. All sales materials are to use the National IPA logo. At a minimum, the Supplier's sales initiatives should communicate:
   i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
   ii. Best government pricing
   iii. No cost to participate
   iv. Non-exclusive contract

F. Supplier is responsible for the training of its national sales force on the Master Agreement. At a minimum, sales training should include:
   i. Key features of Master Agreement
   ii. Working knowledge of the solicitation process
   iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through National IPA
   iv. Knowledge of benefits of the use of cooperative contracts

G. Provide contact information for the person(s), who will be responsible for:
   i. Marketing
   ii. Sales
   iii. Sales Support
   iv. Financial Reporting
   v. Contracts

H. Describe in detail how your company's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

I. Explain in detail how the sales teams will work with the National IPA team to implement, grow and service the national program.

J. Explain in detail how your organization will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set-up, etc.

K. State the amount of your company's Public Agency sales for the previous fiscal year. Provide a list of your top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

L. Describe your company's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

M. Provide the Contract Sales (as defined in Section 10 of the National Intergovernmental Purchasing Alliance Company Administration Agreement) that your company will guarantee each year under the Master Agreement for the initial three years of the Master Agreement ("Guaranteed Contract Sales").

$_____.00 in year one
$_____.00 in year two
$_____.00 in year three

To the extent Supplier guarantees minimum Contract Sales, the administration fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.

N. Even though it is anticipated that many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.
    i. Respond with Master Agreement pricing (Contract Sales reported to National IPA).
    ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to National IPA under the Master Agreement.
    iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to National IPA).
    iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail your strategies under these options when responding to a solicitation.

NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE COMPANY ADMINISTRATION AGREEMENT

This ADMINISTRATION AGREEMENT (the "Agreement") is made this ___ day of _____ 20___, between National Intergovernmental Purchasing Alliance Company ("National IPA"), and _____ (herein "Supplier").

RECITALS

WHEREAS, the _____ (herein "Principal Procurement Agency") has entered into a Master Agreement effective _____, Agreement No_____, by and between the Principal Procurement Agency and Supplier, (as may be amended from time to time in accordance with the terms thereof, the "Master Agreement"), as attached hereto as Exhibit A and incorporated herein by reference as though fully set forth herein, for the purchase of _____ (herein "Product");

WHEREAS, said Master Agreement provides that any or all public agencies, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), that register (either via registration on the National IPA website or execution of a Master Intergovernmental Cooperative Purchasing Agreement, attached hereto as Exhibit B) (hereinafter referred to as a "Participating Public Agency") may purchase Product at prices stated in the Master Agreement;

WHEREAS, Participating Public Agencies may access the Master Agreement which is offered through National IPA to Public Agencies;

WHEREAS, National IPA serves as the contract administrator of the Master Agreement on behalf of Principal Procurement Agency;

WHEREAS, Principal Procurement Agency desires National IPA to proceed with administration of the Master Agreement; and

WHEREAS, National IPA and Supplier desire to enter into this Agreement to make available the Master Agreement to Participating Public Agencies and to set forth certain terms and conditions governing the relationship between National IPA and Supplier.

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, National IPA and Supplier hereby agree as follows:

DEFINITIONS

1. Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings given to them in the Master Agreement.

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TERMS AND CONDITIONS

2. The Master Agreement and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement. Supplier acknowledges and agrees that the covenants and agreements of Supplier set forth in the solicitation and Supplier's response thereto resulting in the Master Agreement are incorporated herein and are an integral part hereof.

3. National IPA shall be afforded all of the rights, privileges and indemnifications afforded to Principal Procurement Agency by or from Supplier under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to National IPA, its agents, employees, directors, and representatives under this Agreement including, but not limited to, the Supplier's obligation to provide appropriate insurance.

4. National IPA shall perform all of its duties, responsibilities and obligations as contract administrator of the Master Agreement on behalf of Principal Procurement Agency as set forth herein, and Supplier hereby acknowledges and agrees that all duties, responsibilities and obligations will be undertaken by National IPA solely in its capacity as the contract administrator under the Master Agreement.

5. With respect to any purchases by Principal Procurement Agency or any Participating Public Agency pursuant to the Master Agreement, National IPA: (i) shall not be construed as a dealer, re-marketer, representative, partner or agent of any type of the Supplier, Principal Procurement Agency or any Participating Public Agency; (ii) shall not be obligated, liable or responsible for any order for Product made by Principal Procurement Agency or any Participating Public Agency or any employee thereof under the Master Agreement or for any payment required to be made with respect to such order for Product; and (iii) shall not be obligated, liable or responsible for any failure by Principal Procurement Agency or any Participating Public Agency to comply with procedures or requirements of applicable law or the Master Agreement or to obtain the due authorization and approval necessary to purchase under the Master Agreement. National IPA makes no representation or guaranty with respect to any minimum purchases by Principal Procurement Agency or any Participating Public Agency or any employee thereof under this Agreement or the Master Agreement.

TERM OF AGREEMENT

6. This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the provisions of paragraphs 3, 4 and 5 hereof and the indemnifications afforded by the Supplier to National IPA herein and in the Master Agreement, to the extent such provision survive the term of the Master Agreement, shall survive the term of this Agreement.

NATIONAL PROMOTION

7. National IPA and Supplier shall publicize and promote the availability of the Master Agreement's products and services to Public Agencies and such agencies' employees. Supplier's failure to maintain its covenants and commitments contained in this Agreement or any action of the Supplier which gives rise to a right by Principal Procurement Agency to terminate the Master Agreement shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of this Agreement at

EXAMPLE

National IPA's sole discretion. Notwithstanding anything contained herein to the contrary, this Agreement shall terminate on the date of the termination or expiration of the Master Agreement.

8. Supplier shall require each Public Agency to register its participation in the National IPA program by either registering on the National IPA website, www.nationalipa.org, or executing a Master Intergovernmental Cooperative Purchasing Agreement prior to processing the Participating Public Agency's first sales order.

9. Upon request, Supplier shall make available to interested Public Agencies a copy of the Master Agreement and such price lists or quotes as may be necessary for such Public Agencies to evaluate potential purchases. In addition, Supplier shall provide such marketing and administrative support as set forth in the solicitation resulting in the Master Agreement, including assisting in development of marketing materials as reasonably requested by Principal Procurement Agency and National IPA. Supplier and National IPA shall provide each respective party with its logo ("Logo") and the standard terms of use for its general use in marketing the Master Agreement. Both parties shall obtain written approval from the other party prior to use of such party's Logo. Notwithstanding, the parties understand and agree that except as provided herein neither party shall have any right, title or interest in the other party's Logo. Upon termination of this Agreement, each party shall immediately cease use of the other party's Logo.

MONTHLY REPORTING & FEES

10. Supplier shall pay National IPA an administrative fee in the amount of __% of the total purchase amount paid to Supplier, less refunds, credits on returns, rebates and discounts, for the sale of products and/or services to Principal Procurement Agency and Participating Public Agencies pursuant to the Master Agreement (as amended from time to time and including any renewal thereof) ("Contract Sales"). Supplier shall provide National IPA with an electronic accounting report, in Microsoft Excel, in the format prescribed by National IPA, on a monthly basis summarizing all Contract Sales for the applicable month. A sample of the Contract Sales reporting format is provided as Exhibit C, attached hereto and incorporated herein by reference.

11. Reports of Contract Sales for Principal Procurement Agency and Participating Public Agencies in each calendar month shall be provided by Supplier to National IPA by the 10th day of the following month. Such reports shall be accompanied by an administrative fee payment in the amount indicated on the report as being due. Administrative fee payments are to be paid by the Supplier to National IPA via Automated Clearing House (ACH) to the National IPA designated financial institution identified in Exhibit D. Failure to provide a monthly report or payment of the administrative fees within the time and manner specified herein shall constitute a material breach of this Agreement and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the Master Agreement, at Principal Procurement Agency's sole discretion, and/or this Agreement, at National IPA's sole discretion. All administrative fees not paid when due shall bear interest at a rate equal to the lesser of 1 1/2% per month or the maximum rate permitted by law until paid in full.

12. Supplier shall maintain an accounting of all purchases made by Participating Public Agencies under the Master Agreement. National IPA, or its designee, in National IPA's sole discretion, reserves the right to compare Participating Public Agency records with monthly reports submitted by Supplier for a period of four (4) years from the date National IPA receives such monthly report. National IPA may engage a third party to conduct an independent audit of

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Supplier's monthly reports. In the event of such an audit, Supplier shall provide all materials reasonably requested relating to such audit by National IPA at the location designated by National IPA. In the event an underreporting of Contract Sales and a resulting underpayment of administrative fees is revealed, National IPA will notify the Supplier in writing. Supplier will have thirty (30) days from the date of such notice to resolve the discrepancy to National IPA's reasonable satisfaction, including payment of any administrative fees due and owing, together with interest thereon in accordance with Section 11, and reimbursement of National IPA's costs and expenses related to such audit.

GENERAL PROVISIONS

13. This Agreement, the Master Agreement and the exhibits referenced herein supersede any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereto and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained or incorporated herein shall be valid or binding. In the event of any conflict between the provisions of this Agreement and the Master Agreement, as between National IPA and Supplier, the provisions of this Agreement shall prevail.

14. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement or to recover any administrative fee and accrued interest, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which it may be entitled.

15. This Agreement and National IPA's rights and obligations hereunder may be assigned at National IPA's sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform National IPA's obligations hereunder. Supplier may not assign its obligations hereunder without the prior written consent of National IPA.

16. All written communications given hereunder shall be delivered by first-class mail, postage prepaid, or overnight delivery on receipt to the addresses as set forth below.

A. National Intergovernmental Purchasing Alliance Company

National IPA
Attn: President
2555 Meridian Blvd
Suite 300
Franklin, TN 37067

B. Supplier

17. If any provision of this Agreement shall be deemed to be, or shall in fact be, illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever, and this Agreement will be construed by limiting or invalidating such provision to the minimum extent necessary to make such provision valid, legal and enforceable.

EXAMPLE

18. This Agreement may not be amended, changed, modified, or altered without the prior written consent of the parties hereto, and no provision of this Agreement may be discharged or waived, except by a writing signed by the parties. A waiver of any particular provision will not be deemed a waiver of any other provision, nor will a waiver given on one occasion be deemed to apply to any other occasion.

19. This Agreement shall inure to the benefit of and shall be binding upon National IPA, the Supplier and any respective successor and assign thereto; subject, however, to the limitations contained herein.

20. This Agreement will be construed under and governed by the laws of the state of Delaware, excluding its conflicts of law provisions.

Authorized Signature, Supplier	NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE COMPANY
_____	_____
Signature	Signature
_____	Ward H. Brown
Name	Name
_____	Chief Operating Officer
Title	Title
_____	_____
Date	Date

EXAMPLE

MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

This Master Intergovernmental Cooperative Purchasing Agreement (the "**Agreement**") is entered into by and between those certain government agencies that execute a Principal Procurement Agency Certificate ("**Principal Procurement Agencies**") with National Intergovernmental Purchasing Alliance Company ("**National IPA**") to be appended and made a part hereof and such other public agencies ("**Participating Public Agencies**") who register to participate in the cooperative purchasing programs administered by National IPA and its affiliates and subsidiaries (collectively the "**National IPA Parties**") by either registering on a National IPA Party website (such as www.nationalipa.org), or by executing a copy of this Agreement.

RECITALS

WHEREAS, after a competitive solicitation and selection process by Principal Procurement Agencies, a number of suppliers have entered into "**Master Agreements**" (herein so called) to provide a variety of goods, products and services ("**Products**") to the applicable Principal Procurement Agency and the Participating Public Agencies;

WHEREAS, Master Agreements are made available by Principal Procurement Agencies through the National IPA Parties and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Principal Procurement Agency, subject to any applicable federal and/or local purchasing ordinances and the laws of the State of purchase;

WHEREAS, in addition to Master Agreements, the National IPA Parties may from time to time offer Participating Public Agencies the opportunity to acquire Products through other group purchasing agreements;

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and of the mutual benefits to result, the parties agree as follows:

1. That each party will facilitate the cooperative procurement of Products.

2. That the procurement of Products by Participating Public Agencies subject to this Agreement shall be conducted in accordance with and subject to the relevant federal, state and local statutes, ordinances, rules and regulations that govern Participating Public Agency's procurement practices.

3. That the cooperative use of Master Agreements and other group purchasing agreements shall be in accordance with the terms and conditions of such agreements, except as modification of those terms and conditions is otherwise allowed or required by applicable federal, state or local law.

4. That the Principal Procurement Agencies will make available, upon reasonable request and subject to convenience, Master Agreement information which may assist in improving the procurement of Products by the Participating Public Agencies.

5. That the Participating Public Agency agrees that the National IPA Parties may provide access to group purchasing organization ("**GPO**") agreements directly or

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indirectly by enrolling the Participating Public Agency in another GPO's purchasing program, including but not limited to Vizient Supply, LLC, Provista, Inc. and other National IPA affiliates and subsidiaries; provided that the purchase of Products through a National IPA Party or any other GPO shall be at the Participating Public Agency's sole discretion.

6. That the Participating Public Agencies (each a "**Procuring Party**") that procure Products through any Master Agreement or GPO Product supply agreement (each a "**GPO Contract**") will make timely payments to the distributor, manufacturer or other vendor (collectively, "**Supplier**") for Products received in accordance with the terms and conditions of the Master Agreement or GPO Contract, as applicable. Payment for Products and inspections and acceptance of Products ordered by the Procuring Party shall be the exclusive obligation of such Procuring Party. Disputes between Procuring Party and any Supplier shall be resolved in accordance with the law and venue rules of the State of purchase unless otherwise agreed to by the Procuring Party and Supplier.

7. The Procuring Party shall not use this Agreement as a method for obtaining additional concessions or reduced prices for similar products or services.

8. The Procuring Party shall be responsible for the ordering of Products under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a Procuring Party, and the Procuring Party shall hold non-procuring party harmless from any liability that may arise from action or inaction of the Procuring Party. Without limiting the generality of the foregoing, the National IPA Parties make no representations or warranties regarding any Product, Master Agreement or GPO Contract, and shall have no liability for any act or omission by a Supplier or other party under a Master Agreement or GPO Contract.

9. This Agreement shall remain in effect until termination by a party giving 30 days written notice to the other party. The provisions of paragraphs 6, 7 and 8 hereof shall survive any such termination.

10. This Agreement shall take effect upon (i) execution of the Principal Procurement Agency Certificate or (ii) the registration on a National IPA Party website or the execution of this Agreement by a Participating Public Agency, as applicable.

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PRINCIPAL PROCUREMENT AGENCY CERTIFICATE

In its capacity as Principal Procurement Agency for National IPA, NAME OF PPA agrees to pursue Master Agreements for Products as specified in the attached exhibits to this Principal Procurement Agency Certificate.

I hereby acknowledge, in my capacity as _____ of and on behalf of NAME OF PPA ("Principal Procurement Agency"), that I have read and hereby agree to the general terms and conditions set forth in the attached Master Intergovernmental Cooperative Purchasing Agreement regulating the use of the Master Agreements and purchase of Products that from time to time are made available by Principal Procurement Agencies to Participating Public Agencies nationwide through National Intergovernmental Purchasing Alliance Company ("National IPA") pursuant to the terms of the Administrative Agreement by and between National IPA and the applicable supplier.

I understand that the purchase of one or more Products under the provisions of the Master Intergovernmental Cooperative Purchasing Agreement is at the sole and complete discretion of the Participating Public Agency.

Authorized Signature, Principal Procurement Agency

_____
Signature

_____
Name

_____
Title

_____
Date

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NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE COMPANY EXHIBITS

EXHIBIT C - NATIONAL IPA CONTRACT SALES REPORTING TEMPLATE

(to be submitted electronically in Microsoft Excel format)

National IPA Contract Sales Monthly Report

Supplier Name:

Contract Sales Report Month:

Contract ID:

Participating Agency Name	Address	City	State	Zip Code	Participating Agency # {Assigned by National IPA and provided to Supplier}	Transaction Date (Date of Sale)	Contract Sales for Month ($)	Admin Fee %	Admin Fee $
						Report Totals			
						Cumulative Contract Sales			

NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE COMPANY EXHIBITS
EXHIBIT F- NATIONAL IPA ADVERTISING COMPLIANCE REQUIREMENT

Pursuant to certain state notice provisions, including but not limited to Oregon Revised Statutes Chapter 279A.220, the following public agencies and political subdivisions of the referenced public agencies are eligible to register with National IPA and access the Master Agreement contract award made pursuant to this solicitation, and are hereby given notice of the foregoing request for proposals for purposes of complying with the procedural requirements of said statutes:

Nationwide:

State of Alabama*	State of Hawaii	State of Massachusetts	State of New Mexico	State of South Dakota
State of Alaska	State of Idaho	State of Michigan	State of New York	State of Tennessee
State of Arizona	State of Illinois	State of Minnesota	State of North Carolina	State of Texas
State of Arkansas	State of Indiana	State of Mississippi	State of North Dakota	State of Utah
State of California	State of Iowa	State of Missouri	State of Ohio	State of Vermont
State of Colorado	State of Kansas	State of Montana	State of Oklahoma*	State of Virginia
State of Connecticut	State of Kentucky	State of Nebraska	State of Oregon	State of Washington
State of Delaware	State of Louisiana	State of Nevada	State of Pennsylvania	State of West Virginia
State of Florida	State of Maine	State of New Hampshire	State of Rhode Island	State of Wisconsin
State of Georgia	State of Maryland	State of New Jersey	State of South Carolina	State of Wyoming
District of Columbia				

Lists of political subdivisions and local governments in the above referenced states / districts may be found at http://www.usa.gov/Agencies/State_and_Territories.shtml and https://www.usa.gov/local-governments.

*Some public agencies and political subdivisions of these states may be restricted by state statutes that limit competition among cooperative purchasing organizations by only allowing use of purchasing cooperatives sponsored by certain National Associations.

Certain Public Agencies and Political Subdivisions:

CITIES, TOWNS, VILLAGES AND BOROUGHS INCLUDING BUT NOT LIMITED TO:

BAKER CITY GOLF COURSE, OR
CITY OF ADAIR VILLAGE, OR
CITY OF ASHLAND, OR
CITY OF AUMSVILLE, OR
CITY OF AURORA, OR
CITY OF BAKER, OR
CITY OF BATON ROUGE, LA
CITY OF BEAVERTON, OR
CITY OF BEND, OR
CITY OF BOARDMAN, OR
CITY OF BONANAZA, OR
CITY OF BOSSIER CITY, LA
CITY OF BROOKINGS, OR
CITY OF BURNS, OR
CITY OF CANBY, OR
CITY OF CANYONVILLE, OR
CITY OF CLATSKANIE, OR
CITY OF COBURG, OR
CITY OF CONDON, OR
CITY OF COQUILLE, OR
CITY OF CORVALLI, OR
CITY OF CORVALLIS PARKS AND RECREATION DEPARTMENT, OR
CITY OF COTTAGE GROVE, OR
CITY OF DONALD, OR
CITY OF EUGENE, OR
CITY OF FOREST GROVE, OR
CITY OF GOLD HILL, OR
CITY OF GRANTS PASS, OR
CITY OF GRESHAM, OR
CITY OF HILLSBORO, OR
CITY OF INDEPENDENCE, OR
CITY AND COUNTY OF HONOLULU, HI
CITY OF KENNER, LA
CITY OF LA GRANDE, OR
CITY OF LAFAYETTE, LA
CITY OF LAKE CHARLES, OR
CITY OF LEBANON, OR
CITY OF MCMINNVILLE, OR
CITY OF MEDFORD, OR
CITY OF METAIRIE, LA
CITY OF MILL CITY, OR
CITY OF MILWAUKIE, OR
CITY OF MONROE, LA
CITY OF MOSIER, OR
CITY OF NEW ORLEANS, LA
CITY OF NORTH PLAINS, OR
CITY OF OREGON CITY, OR
CITY OF PILOT ROCK, OR
CITY OF PORTLAND, OR
CITY OF POWERS, OR
CITY OF PRINEVILLE, OR
CITY OF REDMOND, OR
CITY OF REEDSPORT, OR
CITY OF RIDDLE, OR
CITY OF ROGUE RIVER, OR
CITY OF ROSEBURG, OR
CITY OF SALEM, OR
CITY OF SANDY, OR
CITY OF SCAPPOOSE, OR
CITY OF SHADY COVE, OR
CITY OF SHERWOOD, OR
CITY OF SHREVEPORT, LA
CITY OF SILVERTON, OR
CITY OF SPRINGFIELD, OR
CITY OF ST. HELENS, OR
CITY OF ST. PAUL, OR
CITY OF SULPHUR, LA
CITY OF TIGARD, OR
CITY OF TROUTDALE, OR

CITY OF TUALATIN, OR
CITY OF WALKER, LA
CITY OF WARRENTON, OR
CITY OF WEST LINN, OR
CITY OF WILSONVILLE, OR
CITY OF WINSTON, OR
CITY OF WOODBURN, OR
LEAGUE OF OREGON CITES
THE CITY OF HAPPY VALLEY OREGON
ALPINE, UT
ALTA, UT
ALTAMONT, UT
ALTON, UT
AMALGA, UT
AMERICAN FORK CITY, UT
ANNABELLA, UT
ANTIMONY, UT
APPLE VALLEY, UT
AURORA, UT
BALLARD, UT
BEAR RIVER CITY, UT
BEAVER, UT
BICKNELL, UT
BIG WATER, UT
BLANDING, UT
BLUFFDALE, UT
BOULDER, UT
CITY OF BOUNTIFUL, UT
BRIAN HEAD, UT
BRIGHAM CITY CORPORATION, UT
BRYCE CANYON CITY, UT
CANNONVILLE, UT
CASTLE DALE, UT
CASTLE VALLEY, UT
CITY OF CEDAR CITY, UT
CEDAR FORT, UT
CITY OF CEDAR HILLS, UT
CENTERFIELD, UT
CENTERVILLE CITY CORPORATION, UT
CENTRAL VALLEY, UT
CHARLESTON, UT
CIRCLEVILLE, UT
CLARKSTON, UT
CLAWSON, UT
CLEARFIELD, UT
CLEVELAND, UT
CLINTON CITY CORPORATION, UT
COALVILLE, UT
CORINNE, UT
CORNISH, UT
COTTONWOOD HEIGHTS, UT
DANIEL, UT
DELTA, UT
DEWEYVILLE, UT
DRAPER CITY, UT
DUCHESNE, UT
EAGLE MOUNTAIN, UT
EAST CARBON, UT
ELK RIDGE, UT
ELMO, UT
ELSINORE, UT
ELWOOD, UT
EMERY, UT
ENOCH, UT
ENTERPRISE, UT
EPHRAIM, UT
ESCALANTE, UT
EUREKA, UT
FAIRFIELD, UT
FAIRVIEW, UT
FARMINGTON, UT
FARR WEST, UT
FAYETTE, UT
FERRON, UT
FIELDING, UT
FILLMORE, UT
FOUNTAIN GREEN, UT
FRANCIS, UT
FRUIT HEIGHTS, UT
GARDEN CITY, UT
GARLAND, UT
GENOLA, UT
GLENDALE, UT
GLENWOOD, UT
GOSHEN, UT
GRANTSVILLE, UT
GREEN RIVER, UT
GUNNISON, UT
HANKSVILLE, UT
HARRISVILLE, UT
HATCH, UT
HEBER CITY CORPORATION, UT
HELPER, UT
HENEFER, UT
HENRIEVILLE, UT
HERRIMAN, UT
HIDEOUT, UT
HIGHLAND, UT
HILDALE, UT
HINCKLEY, UT
HOLDEN, UT
HOLLADAY, UT
HONEYVILLE, UT
HOOPER, UT
HOWELL, UT
HUNTINGTON, UT
HUNTSVILLE, UT
CITY OF HURRICANE, UT
HYDE PARK, UT
HYRUM, UT
INDEPENDENCE, UT
IVINS, UT
JOSEPH, UT
JUNCTION, UT
KAMAS, UT
KANAB, UT
KANARRAVILLE, UT
KANOSH, UT
KAYSVILLE, UT
KINGSTON, UT
KOOSHAREM, UT
LAKETOWN, UT
LA VERKIN, UT
LAYTON, UT
LEAMINGTON, UT
LEEDS, UT
LEHI CITY CORPORATION, UT
LEVAN, UT
LEWISTON, UT
LINDON, UT
LOA, UT
LOGAN CITY, UT
LYMAN, UT
LYNNDYL, UT

MANILA, UT
MANTI, UT
MANTUA, UT
MAPLETON, UT
MARRIOTT-SLATERVILLE, UT
MARYSVALE, UT
MAYFIELD, UT
MEADOW, UT
MENDON, UT
MIDVALE CITY INC., UT
MIDWAY, UT
MILFORD, UT
MILLVILLE, UT
MINERSVILLE, UT
MOAB, UT
MONA, UT
MONROE, UT
CITY OF MONTICELLO, UT
MORGAN, UT
MORONI, UT
MOUNT PLEASANT, UT
MURRAY CITY CORPORATION, UT
MYTON, UT
NAPLES, UT
NEPHI, UT
NEW HARMONY, UT
NEWTON, UT
NIBLEY, UT
NORTH LOGAN, UT
NORTH OGDEN, UT
NORTH SALT LAKE CITY, UT
OAK CITY, UT
OAKLEY, UT
OGDEN CITY CORPORATION, UT
OPHIR, UT
ORANGEVILLE, UT
ORDERVILLE, UT
OREM, UT
PANGUITCH, UT
PARADISE, UT
PARAGONAH, UT
PARK CITY, UT
PAROWAN, UT
PAYSON, UT
PERRY, UT
PLAIN CITY, UT
PLEASANT GROVE CITY, UT
PLEASANT VIEW, UT
PLYMOUTH, UT
PORTAGE, UT
PRICE, UT
PROVIDENCE, UT
PROVO, UT
RANDOLPH, UT
REDMOND, UT
RICHFIELD, UT
RICHMOND, UT
RIVERDALE, UT
RIVER HEIGHTS, UT
RIVERTON CITY, UT
ROCKVILLE, UT
ROCKY RIDGE, UT
ROOSEVELT CITY CORPORATION, UT
ROY, UT
RUSH VALLEY, UT
CITY OF ST. GEORGE, UT
SALEM, UT
SALINA, UT
SALT LAKE CITY CORPORATION, UT
SANDY, UT
SANTA CLARA, UT
SANTAQUIN, UT
SARATOGA SPRINGS, UT
SCIPIO, UT
SCOFIELD, UT
SIGURD, UT
SMITHFIELD, UT
SNOWVILLE, UT
CITY OF SOUTH JORDAN, UT
SOUTH OGDEN, UT
CITY OF SOUTH SALT LAKE, UT
SOUTH WEBER, UT
SPANISH FORK, UT
SPRING CITY, UT
SPRINGDALE, UT
SPRINGVILLE, UT
STERLING, UT
STOCKTON, UT
SUNNYSIDE, UT
SUNSET CITY CORP, UT
SYRACUSE, UT
TABIONA, UT
CITY OF TAYLORSVILLE, UT
TOOELE CITY CORPORATION, UT
TOQUERVILLE, UT
TORREY, UT
TREMONTON CITY, UT
TRENTON, UT
TROPIC, UT
UINTAH, UT
VERNAL CITY, UT
VERNON, UT
VINEYARD, UT
VIRGIN, UT
WALES, UT
WALLSBURG, UT
WASHINGTON CITY, UT
WASHINGTON TERRACE, UT
WELLINGTON, UT
WELLSVILLE, UT
WENDOVER, UT
WEST BOUNTIFUL, UT
WEST HAVEN, UT
WEST JORDAN, UT
WEST POINT, UT
WEST VALLEY CITY, UT
WILLARD, UT
WOODLAND HILLS, UT
WOODRUFF, UT
WOODS CROSS, UT

COUNTIES AND PARISHES INCLUDING BUT NOT LIMITED TO:

ASCENSION PARISH, LA
ASCENSION PARISH, LA, CLEAR OF COURT
CADDO PARISH, LA
CALCASIEU PARISH, LA
CALCASIEU PARISH SHERIFF'S OFFICE, LA
CITY AND COUNTY OF HONOLULU, HI
CLACKAMAS COUNTY, OR
CLACKAMAS COUNTY DEPT OF TRANSPORTATION, OR
CLATSOP COUNTY, OR
COLUMBIA COUNTY, OR

COOS COUNTY, OR
COOS COUNTY HIGHWAY DEPARTMENT, OR
COUNTY OF HAWAII, OR
CROOK COUNTY, OR
CROOK COUNTY ROAD DEPARTMENT, OR
CURRY COUNTY, OR
DESCHUTES COUNTY, OR
DOUGLAS COUNTY, OR
EAST BATON ROUGE PARISH, LA
GILLIAM COUNTY, OR
GRANT COUNTY, OR
HARNEY COUNTY, OR
HARNEY COUNTY SHERIFFS OFFICE, OR
HAWAII COUNTY, HI
HOOD RIVER COUNTY, OR
JACKSON COUNTY, OR
JEFFERSON COUNTY, OR
JEFFERSON PARISH, LA
JOSEPHINE COUNTY GOVERNMENT, OR
LAFAYETTE CONSOLIDATED GOVERNMENT, LA
LAFAYETTE PARISH, LA
LAFAYETTE PARISH CONVENTION & VISITORS COMMISSION
LAFOURCHE PARISH, LA
KAUAI COUNTY, HI
KLAMATH COUNTY, OR
LAKE COUNTY, OR
LANE COUNTY, OR
LINCOLN COUNTY, OR
LINN COUNTY, OR
LIVINGSTON PARISH, LA
MALHEUR COUNTY, OR
MAUI COUNTY, HI
MARION COUNTY, SALEM, OR
MORROW COUNTY, OR
MULTNOMAH COUNTY, OR
MULTNOMAH COUNTY BUSINESS AND COMMUNITY SERVICES, OR
MULTNOMAH COUNTY SHERIFFS OFFICE, OR
MULTNOMAH LAW LIBRARY, OR
ORLEANS PARISH, LA
PLAQUEMINES PARISH, LA
POLK COUNTY, OR
RAPIDES PARISH, LA
SAINT CHARLES PARISH, LA
SAINT CHARLES PARISH PUBLIC SCHOOLS, LA
SAINT LANDRY PARISH, LA
SAINT TAMMANY PARISH, LA
SHERMAN COUNTY, OR
TERREBONNE PARISH, LA
TILLAMOOK COUNTY, OR
TILLAMOOK COUNTY SHERIFF'S OFFICE, OR
TILLAMOOK COUNTY GENERAL HOSPITAL, OR
UMATILLA COUNTY, OR
UNION COUNTY, OR
WALLOWA COUNTY, OR
WASCO COUNTY, OR
WASHINGTON COUNTY, OR
WEST BATON ROUGE PARISH, LA
WHEELER COUNTY, OR
YAMHILL COUNTY, OR
COUNTY OF BOX ELDER, UT
COUNTY OF CACHE, UT
COUNTY OF RICH, UT
COUNTY OF WEBER, UT
COUNTY OF MORGAN, UT
COUNTY OF DAVIS, UT
COUNTY OF SUMMIT, UT
COUNTY OF DAGGETT, UT
COUNTY OF SALT LAKE, UT
COUNTY OF TOOELE, UT
COUNTY OF UTAH, UT
COUNTY OF WASATCH, UT
COUNTY OF DUCHESNE, UT
COUNTY OF UINTAH, UT
COUNTY OF CARBON, UT
COUNTY OF SANPETE, UT
COUNTY OF JUAB, UT
COUNTY OF MILLARD, UT
COUNTY OF SEVIER, UT
COUNTY OF EMERY, UT
COUNTY OF GRAND, UT
COUNTY OF BEVER, UT
COUNTY OF PIUTE, UT
COUNTY OF WAYNE, UT
COUNTY OF SAN JUAN, UT
COUNTY OF GARFIELD, UT
COUNTY OF KANE, UT
COUNTY OF IRON, UT
COUNTY OF WASHINGTON, UT

OTHER AGENCIES INCLUDING ASSOCIATIONS, BOARDS, DISTRICTS, COMMISSIONS, COUNCILS, PUBLIC CORPORATIONS, PUBLIC DEVELOPMENT AUTHORITIES, RESERVATIONS AND UTILITIES INCLUDING BUT NOT LIMITED TO:

BANKS FIRE DISTRICT, OR
BATON ROUGE WATER COMPANY
BEND METRO PARK AND RECREATION DISTRICT
BIENVILLE PARISH FIRE PROTECTION DISTRICT 6, LA
BOARDMAN PARK AND RECREATION DISTRICT
CENTRAL CITY ECONOMIC OPPORTUNITY CORP, LA
CENTRAL OREGON INTERGOVERNMENTAL COUNCIL
CITY OF BOGALUSA SCHOOL BOARD, LA
CLACKAMAS RIVER WATER
CLATSKANIE PEOPLE'S UTILITY DISTRICT
CLEAN WATER SERVICES
CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION
COOS FOREST PROTECTIVE ASSOCIATION
CHEHALEM PARK AND RECREATION DISTRICT
DAVID CROCKETT STEAM FIRE COMPANY #1, LA
EUGENE WATER AND ELECTRIC BOARD
HONOLULU INTERNATIONAL AIRPORT
HOODLAND FIRE DISTRICT #74
HOUSING AUTHORITY OF PORTLAND
ILLINOIS VALLEY FIRE DISTRICT
LAFAYETTE AIRPORT COMMISSION, LA
LAFOURCHE PARISH HEALTH UNIT – DHH-OPH REGION 3
LOUISIANA PUBLIC SERVICE COMMISSION, LA
LOUISIANA WATER WORKS
MEDFORD WATER COMMISSION
MELHEUR COUNTY JAIL, OR
METRO REGIONAL GOVERNMENT
METRO REGIONAL PARKS
METROPOLITAN EXPOSITION RECREATION COMMISSION
METROPOLITAN SERVICE DISTRICT (METRO)
MULTNOMAH EDUCATION SERVICE DISTRICT
NEW ORLEANS REDEVELOPMENT AUTHORITY, LA
NORTHEAST OREGON HOUSING AUTHORITY, OR

PORT OF BRANDON, OR
PORT OF MORGAN CITY, LA
PORTLAND DEVELOPMENT COMMISSION, OR
PORTLAND FIRE AND RESCUE
PORTLAND HOUSING CENTER, OR
OREGON COAST COMMUNITY ACTION
OREGON HOUSING AND COMMUNITY SERVICES
OREGON LEGISLATIVE ADMINISTRATION
ROGUE VALLEY SEWER, OR
SAINT LANDRY PARISH TOURIST COMMISSION
SAINT MARY PARISH REC DISTRICT 2
SAINT MARY PARISH REC DISTRICT 3
SAINT TAMMANY FIRE DISTRICT 4, LA
SALEM MASS TRANSIT DISTRICT
SEWERAGE AND WATER BOARD OF NEW ORLEANS, LA
SOUTH LAFOURCHE LEVEE DISTRICT, LA
TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON
TUALATIN HILLS PARK & RECREATION DISTRICT
TUALATIN VALLEY FIRE & RESCUE
TUALATIN VALLEY WATER DISTRICT
WILLAMALANE PARK AND RECREATION DISTRICT
WILLAMETTE HUMANE SOCIETY

K-12 INCLUDING BUT NOT LIMITED TO:

ACADIA PARISH SCHOOL BOARD
BEAVERTON SCHOOL DISTRICT
BEND-LA PINE SCHOOL DISTRICT
BOGALUSA HIGH SCHOOL, LA
BOSSIER PARISH SCHOOL BOARD
BROOKING HARBOR SCHOOL DISTRICT
CADDO PARISH SCHOOL DISTRICT
CALCASIEU PARISH SCHOOL DISTRICT
CANBY SCHOOL DISTRICT
CANYONVILLE CHRISTIAN ACADEMY
CASCADE SCHOOL DISTRICT
CASCADES ACADEMY OF CENTRAL OREGON
CENTENNIAL SCHOOL DISTRICT
CENTRAL CATHOLIC HIGH SCHOOL
CENTRAL POINT SCHOOL DISTRICT NO.6
CENTRAL SCHOOL DISTRICT 13J
COOS BAY SCHOOL DISTRICT NO.9
CORVALLIS SCHOOL DISTRICT 509J
COUNTY OF YAMHILL SCHOOL DISTRICT 29
CULVER SCHOOL DISTRICT
DALLAS SCHOOL DISTRICT NO.2
DAVID DOUGLAS SCHOOL DISTRICT
DAYTON SCHOOL DISTRICT NO.8
DE LA SALLE N CATHOLIC HS
DESCHUTES COUNTY SCHOOL DISTRICT NO.6
DOUGLAS EDUCATIONAL DISTRICT SERVICE
DUFUR SCHOOL DISTRICT NO.29
EAST BATON ROUGE PARISH SCHOOL DISTRICT
ESTACADA SCHOOL DISTRICT NO.10B
FOREST GROVE SCHOOL DISTRICT
GEORGE MIDDLE SCHOOL
GLADSTONE SCHOOL DISTRICT
GRANTS PASS SCHOOL DISTRICT 7
GREATER ALBANY PUBLIC SCHOOL DISTRICT
GRESHAM BARLOW JOINT SCHOOL DISTRICT
HEAD START OF LANE COUNTY
HIGH DESERT EDUCATION SERVICE DISTRICT
HILLSBORO SCHOOL DISTRICT
HOOD RIVER COUNTY SCHOOL DISTRICT
JACKSON CO SCHOOL DIST NO.9
JEFFERSON COUNTY SCHOOL DISTRICT 509-J
JEFFERSON PARISH SCHOOL DISTRICT
JEFFERSON SCHOOL DISTRICT
JUNCTION CITY SCHOOLS, OR
KLAMATH COUNTY SCHOOL DISTRICT
KLAMATH FALLS CITY SCHOOLS
LAFAYETTE PARISH SCHOOL DISTRICT
LAKE OSWEGO SCHOOL DISTRICT 7J
LANE COUNTY SCHOOL DISTRICT 4J
LINCOLN COUNTY SCHOOL DISTRICT
LINN CO. SCHOOL DIST. 95C
LIVINGSTON PARISH SCHOOL DISTRICT
LOST RIVER JR/SR HIGH SCHOOL
LOWELL SCHOOL DISTRICT NO.71
MARION COUNTY SCHOOL DISTRICT
MARION COUNTY SCHOOL DISTRICT 103
MARIST HIGH SCHOOL, OR
MCMINNVILLE SCHOOL DISTRICT NOAO
MEDFORD SCHOOL DISTRICT 549C
MITCH CHARTER SCHOOL
MONROE SCHOOL DISTRICT NO.1J
MORROW COUNTY SCHOOL DIST, OR
MULTNOMAH EDUCATION SERVICE DISTRICT
MULTISENSORY LEARNING ACADEMY
MYRTLE PINT SCHOOL DISTRICT 41
NEAH-KAH-NIE DISTRICT NO.56
NEWBERG PUBLIC SCHOOLS
NESTUCCA VALLEY SCHOOL DISTRICT NO.101
NOBEL LEARNING COMMUNITIES
NORTH BEND SCHOOL DISTRICT 13
NORTH CLACKAMAS SCHOOL DISTRICT
NORTH DOUGLAS SCHOOL DISTRICT
NORTH WASCO CITY SCHOOL DISTRICT 21
NORTHWEST REGIONAL EDUCATION SERVICE DISTRICT
ONTARIO MIDDLE SCHOOL
OREGON TRAIL SCHOOL DISTRICT NOA6
ORLEANS PARISH SCHOOL DISTRICT
PHOENIX-TALENT SCHOOL DISTRICT NOA
PLEASANT HILL SCHOOL DISTRICT
PORTLAND JEWISH ACADEMY
PORTLAND PUBLIC SCHOOLS
RAPIDES PARISH SCHOOL DISTRICT
REDMOND SCHOOL DISTRICT
REYNOLDS SCHOOL DISTRICT
ROGUE RIVER SCHOOL DISTRICT
ROSEBURG PUBLIC SCHOOLS
SCAPPOOSE SCHOOL DISTRICT 1J
SAINT TAMMANY PARISH SCHOOL BOARD, LA
SEASIDE SCHOOL DISTRICT 10
SHERWOOD SCHOOL DISTRICT 88J
SILVER FALLS SCHOOL DISTRICT 4J
SOUTH LANE SCHOOL DISTRICT 45J3
SOUTHERN OREGON EDUCATION SERVICE DISTRICT
SPRINGFIELD PUBLIC SCHOOLS
SUTHERLIN SCHOOL DISTRICT
SWEET HOME SCHOOL DISTRICT NO.55
TERREBONNE PARISH SCHOOL DISTRICT
THE CATLIN GABEL SCHOOL
TIGARD-TUALATIN SCHOOL DISTRICT
UMATILLA MORROW ESD
WEST LINN WILSONVILLE SCHOOL DISTRICT
WILLAMETTE EDUCATION SERVICE DISTRICT
WOODBURN SCHOOL DISTRICT
YONCALLA SCHOOL DISTRICT

ACADEMY FOR MATH ENGINEERING & SCIENCE (AMES) , UT
ALIANZA ACADEMY , UT
ALPINE DISTRICT , UT
AMERICAN LEADERSHIP ACADEMY , UT
AMERICAN PREPARATORY ACADEMY , UT
BAER CANYON HIGH SCHOOL FOR SPORTS & MEDICAL SCIENCES , UT
BEAR RIVER CHARTER SCHOOL , UT
BEAVER SCHOOL DISTRICT , UT
BEEHIVE SCIENCE & TECHNOLOGY ACADEMY (BSTA) , UT
BOX ELDER SCHOOL DISTRICT , UT
CBA CENTER , UT
CACHE SCHOOL DISTRICT , UT
CANYON RIM ACADEMY , UT
CANYONS DISTRICT , UT
CARBON SCHOOL DISTRICT , UT
CHANNING HALL , UT
CHARTER SCHOOL LEWIS ACADEMY , UT
CITY ACADEMY , UT
DAGGETT SCHOOL DISTRICT , UT
DAVINCI ACADEMY , UT
DAVIS DISTRICT , UT
DUAL IMMERSION ACADEMY , UT
DUCHESNE SCHOOL DISTRICT , UT
EARLY LIGHT ACADEMY AT DAYBREAK , UT
EAST HOLLYWOOD HIGH , UT
EDITH BOWEN LABORATORY SCHOOL , UT
EMERSON ALCOTT ACADEMY , UT
EMERY SCHOOL DISTRICT , UT
ENTHEOS ACADEMY , UT
EXCELSIOR ACADEMY , UT
FAST FORWARD HIGH , UT
FREEDOM ACADEMY , UT
GARFIELD SCHOOL DISTRICT , UT
GATEWAY PREPARATORY ACADEMY , UT
GEORGE WASHINGTON ACADEMY , UT
GOOD FOUNDATION ACADEMY , UT
GRAND SCHOOL DISTRICT , UT
GRANITE DISTRICT , UT
GUADALUPE SCHOOL , UT
HAWTHORN ACADEMY , UT
INTECH COLLEGIATE HIGH SCHOOL , UT
IRON SCHOOL DISTRICT , UT
ITINERIS EARLY COLLEGE HIGH , UT
JOHN HANCOCK CHARTER SCHOOL , UT
JORDAN DISTRICT , UT
JUAB SCHOOL DISTRICT , UT
KANE SCHOOL DISTRICT , UT
KARL G MAESER PREPARATORY ACADEMY , UT
LAKEVIEW ACADEMY , UT
LEGACY PREPARATORY ACADEMY , UT
LIBERTY ACADEMY , UT
LINCOLN ACADEMY , UT
LOGAN SCHOOL DISTRICT , UT
MARIA MONTESSORI ACADEMY , UT
MERIT COLLEGE PREPARATORY ACADEMY , UT
MILLARD SCHOOL DISTRICT , UT
MOAB CHARTER SCHOOL , UT
MONTICELLO ACADEMY , UT
MORGAN SCHOOL DISTRICT , UT
MOUNTAINVILLE ACADEMY , UT
MURRAY SCHOOL DISTRICT , UT
NAVIGATOR POINTE ACADEMY , UT
NEBO SCHOOL DISTRICT , UT
NO UT ACAD FOR MATH ENGINEERING & SCIENCE (NUAMES) , UT
NOAH WEBSTER ACADEMY , UT
NORTH DAVIS PREPARATORY ACADEMY , UT
NORTH SANPETE SCHOOL DISTRICT , UT
NORTH STAR ACADEMY , UT
NORTH SUMMIT SCHOOL DISTRICT , UT
ODYSSEY CHARTER SCHOOL , UT
OGDEN PREPARATORY ACADEMY , UT
OGDEN SCHOOL DISTRICT , UT
OPEN CLASSROOM , UT
OPEN HIGH SCHOOL OF UTAH , UT
OQUIRRH MOUNTAIN CHARTER SCHOOL , UT
PARADIGM HIGH SCHOOL , UT
PARK CITY SCHOOL DISTRICT , UT
PINNACLE CANYON ACADEMY , UT
PIUTE SCHOOL DISTRICT , UT
PROVIDENCE HALL , UT
PROVO SCHOOL DISTRICT , UT
QUAIL RUN PRIMARY SCHOOL , UT
QUEST ACADEMY , UT
RANCHES ACADEMY , UT
REAGAN ACADEMY , UT
RENAISSANCE ACADEMY , UT
RICH SCHOOL DISTRICT , UT
ROCKWELL CHARTER HIGH SCHOOL , UT
SALT LAKE ARTS ACADEMY , UT
SALT LAKE CENTER FOR SCIENCE EDUCATION, UT
SALT LAKE SCHOOL DISTRICT , UT
SALT LAKE SCHOOL FOR THE PERFORMING ARTS, UT
SAN JUAN SCHOOL DISTRICT , UT
SEVIER SCHOOL DISTRICT , UT
SOLDIER HOLLOW CHARTER SCHOOL , UT
SOUTH SANPETE SCHOOL DISTRICT , UT
SOUTH SUMMIT SCHOOL DISTRICT , UT
SPECTRUM ACADEMY , UT
SUCCESS ACADEMY , UT
SUCCESS SCHOOL , UT
SUMMIT ACADEMY , UT
SUMMIT ACADEMY HIGH SCHOOL , UT
SYRACUSE ARTS ACADEMY , UT
THOMAS EDISON - NORTH , UT
TIMPANOGOS ACADEMY , UT
TINTIC SCHOOL DISTRICT , UT
TOOELE SCHOOL DISTRICT , UT
TUACAHN HIGH SCHOOL FOR THE PERFORMING ARTS , UT
UINTAH RIVER HIGH , UT
UINTAH SCHOOL DISTRICT , UT
UTAH CONNECTIONS ACADEMY , UT
UTAH COUNTY ACADEMY OF SCIENCE , UT
UTAH ELECTRONIC HIGH SCHOOL , UT
UTAH SCHOOLS FOR DEAF & BLIND , UT
UTAH STATE OFFICE OF EDUCATION , UT
UTAH VIRTUAL ACADEMY , UT
VENTURE ACADEMY , UT
VISTA AT ENTRADA SCHOOL OF PERFORMING ARTS AND TECHNOLOGY , UT
WALDEN SCHOOL OF LIBERAL ARTS , UT
WASATCH PEAK ACADEMY , UT
WASATCH SCHOOL DISTRICT , UT
WASHINGTON SCHOOL DISTRICT , UT
WAYNE SCHOOL DISTRICT , UT
WEBER SCHOOL DISTRICT , UT
WEILENMANN SCHOOL OF DISCOVERY , UT

HIGHER EDUCATION

ARGOSY UNIVERSITY
BATON ROUGE COMMUNITY COLLEGE, LA
BIRTHINGWAY COLLEGE OF MIDWIFERY
BLUE MOUNTAIN COMMUNITY COLLEGE
BRIGHAM YOUNG UNIVERSITY - HAWAII
CENTRAL OREGON COMMUNITY COLLEGE
CENTENARY COLLEGE OF LOUISIANA
CHEMEKETA COMMUNITY COLLEGE
CLACKAMAS COMMUNITY COLLEGE
COLLEGE OF THE MARSHALL ISLANDS
COLUMBIA GORGE COMMUNITY COLLEGE
CONCORDIA UNIVERSITY
GEORGE FOX UNIVERSITY
KLAMATH COMMUNITY COLLEGE DISTRICT
LANE COMMUNITY COLLEGE
LEWIS AND CLARK COLLEGE
LINFIELD COLLEGE
LINN-BENTON COMMUNITY COLLEGE
LOUISIANA COLLEGE, LA
LOUISIANA STATE UNIVERSITY
LOUISIANA STATE UNIVERSITY HEALTH SERVICES
MARYLHURST UNIVERSITY
MT. HOOD COMMUNITY COLLEGE
MULTNOMAH BIBLE COLLEGE
NATIONAL COLLEGE OF NATURAL MEDICINE
NORTHWEST CHRISTIAN COLLEGE
OREGON HEALTH AND SCIENCE UNIVERSITY
OREGON INSTITUTE OF TECHNOLOGY
OREGON STATE UNIVERSITY
OREGON UNIVERSITY SYSTEM
PACIFIC UNIVERSITY
PIONEER PACIFIC COLLEGE
PORTLAND COMMUNITY COLLEGE
PORTLAND STATE UNIVERSITY
REED COLLEGE
RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII
ROGUE COMMUNITY COLLEGE
SOUTHEASTERN LOUISIANA UNIVERSITY
SOUTHERN OREGON UNIVERSITY (OREGON UNIVERSITY SYSTEM)
SOUTHWESTERN OREGON COMMUNITY COLLEGE
TULANE UNIVERSITY
TILLAMOOK BAY COMMUNITY COLLEGE
UMPQUA COMMUNITY COLLEGE
UNIVERSITY OF HAWAII BOARD OF REGENTS
UNIVERSITY OF HAWAII-HONOLULU COMMUNITY COLLEGE
UNIVERSITY OF OREGON-GRADUATE SCHOOL
UNIVERSITY OF PORTLAND
UNIVERSITY OF NEW ORLEANS
WESTERN OREGON UNIVERSITY
WESTERN STATES CHIROPRACTIC COLLEGE
WILLAMETTE UNIVERSITY
XAVIER UNIVERSITY
UTAH SYSTEM OF HIGHER EDUCATION, UT
UNIVERSITY OF UTAH, UT
UTAH STATE UNIVERSITY, UT
WEBER STATE UNIVERSITY, UT
SOUTHERN UTAH UNIVERSITY, UT
SNOW COLLEGE, UT
DIXIE STATE COLLEGE, UT
COLLEGE OF EASTERN UTAH, UT
UTAH VALLEY UNIVERSITY, UT
SALT LAKE COMMUNITY COLLEGE, UT
UTAH COLLEGE OF APPLIED TECHNOLOGY, UT

STATE AGENCIES

ADMIN. SERVICES OFFICE
BOARD OF MEDICAL EXAMINERS
HAWAII CHILD SUPPORT ENFORCEMENT AGENCY
HAWAII DEPARTMENT OF TRANSPORTATION
HAWAII HEALTH SYSTEMS CORPORATION
OFFICE OF MEDICAL ASSISTANCE PROGRAMS
OFFICE OF THE STATE TREASURER
OREGON BOARD OF ARCHITECTS
OREGON CHILD DEVELOPMENT COALITION
OREGON DEPARTMENT OF EDUCATION
OREGON DEPARTMENT OF FORESTRY
OREGON DEPT OF TRANSPORTATION
OREGON DEPT. OF EDUCATION
OREGON LOTTERY
OREGON OFFICE OF ENERGY
OREGON STATE BOARD OF NURSING
OREGON STATE DEPT OF CORRECTIONS
OREGON STATE POLICE
OREGON TOURISM COMMISSION
OREGON TRAVEL INFORMATION COUNCIL
SANTIAM CANYON COMMUNICATION CENTER
SEIU LOCAL 503, OPEU
SOH- JUDICIARY CONTRACTS AND PURCH
STATE DEPARTMENT OF DEFENSE, STATE OF HAWAII
STATE OF HAWAII
STATE OF HAWAII, DEPT. OF EDUCATION
STATE OF LOUISIANA
STATE OF LOUISIANA DEPT. OF EDUCATION
STATE OF LOUISIANA, 26TH JUDICIAL DISTRICT ATTORNEY
STATE OF UTAH

CONTRACT AMENDMENT

CITY OF TUCSON BUSINESS SERVICES DEPARTMENT
255 W. ALAMEDA, 6th FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726-7210
PHONE: (520) 837-4134 / FAX: (520) 791-4735
Cynthia.Thompson@tucsonaz.gov
ISSUE DATE: October 20, 2020

CONTRACT NO:161534-01
CONTRACT AMENDMENT NO.: FIVE (5)

CT
SENIOR CONTRACT OFFICER: CYNTHIA THOMPSON, CPPB

HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES

THIS CONTRACT IS AMENDED AS FOLLOWS:

ITEM ONE (1): RENEWAL

Pursuant to Paragraph 7 (Term and Renewal) of the Special Terms and conditions section, the City is hereby exercising its option to renew the contract for the period of **May 1, 2021 through April 30, 2022.**

ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN IN THEIR ENTIRETY.

CONTRACTOR: CATERPILLAR, INC.

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT OF AND UNDERSTANDING OF THE ABOVE AMENDMENT

Patrick Kearns 11-2-2020
Signature of person authorized to sign Date

Patrick Kearns, North America Industry Mgr.
Name and Title (typed or printed legibly)

Caterpillar Inc.
Company Name

100 NE Adams St.
Address

Kearns_Patrick@cat.com
Email Address

Peoria IL 61629
City State Zip

Contact information for Sales/Account Representative for daily business operations:

Tirena Pavelka
Name and Title (typed or printed legibly)

(309) 494-4578
Phone Number

Pavelka_tirena_L@cat.com
Email Address

CITY OF TUCSON:

THE ABOVE REFERENCED CONTRACT AMENDMENT IS HEREBY EXECUTED THIS 2nd DAY OF November, 2020, AT TUCSON, ARIZONA.

Dan Longanecker for
as Director of Business Services and not personally

11. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Bryce Doty, Real Estate Manager
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Approval of Contract: Cooperative Purchase Contract for Real Estate Appraisal Valuations with Appraisal Technology, LLC in the amount of $61,500.00 in addition to other fees and taxes for property acquisitions necessary for the Milton Road and University Avenue Right of Way Capital Project.

STAFF RECOMMENDED ACTION:

1. Approve the Cooperative Purchase Contract for Real Estate Appraisal Valuation Services with Appraisal Tenchology, LLC in the amount of $61,500.00, in addition to other fees and taxes for appraisals of property acquisitions necessary for the Milton Road and University Avenue Right of Way Project; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The City needs to obtain appraisals to determine just compensation to be paid to property owners for the property interests necessary for the Milton Road and University Avenue Right of Way Project. This contract authorizes appraisals for fifty property interests needed for the project.

Financial Impact:

Milton Road and University Avenue Right of Way Project is currently budgeted in FY2021-2022 in the amount of $7,355,616 (040-10-112-3040-6-4433) utilizing transportation tax funds.

Policy Impact:

None.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Safe and Healthy Community -

- Foster a safe, secure, and healthy community.
- Ensure the built environment is safe through the use of consistent standards, rules and regulations, and land use practices.

Inclusive and Engaged Community -

- Advance social equity and social justice in Flagstaff.

Sustainable, Innovative Infrastructure -

- Deliver outstanding services to residents through a healthy, well maintained infrastructure system.
- Utilize existing long-range plans that identify the community's future infrastructure needs and all associated costs.
- Identify smart traffic management, multi modal transportation, and alternative energy opportunities.

Environmental Stewardship -

- Implement sustainable building practices and alternative energy and transportation options.
- Implement, maintain and further the Climate Action and Adaptation Plan.

Regional Plan Goal T.2 -

- Improve transportation safety and efficiency for all modes**.**

Has There Been Previous Council Decision on This:

The City Council has made many prior decisions related to the Milton Road and University Avenue Right of Way Project as outlined in the Background/History.

Options and Alternatives:

1. Approve the contract for appraisal services;
2. Do not approve the contract for appraisal services, and direct staff to find another contractor or take other action.

Background/History:

On May 16, 2000, the voters of Flagstaff passed proposition 403 which established the local transportation tax 2000 to provide funding for a variety of transportation system improvements including the arterial and collector street system, and multi-modal elements. The information pamphlet for this proposition specifically identified the Beulah Boulevard extension and the University Avenue realignment as “missing links” within the overall transportation network. The exhibit for proposition 403 showed an alignment for these roadways similar to the current proposal. The transportation tax has been collected on a pay-as-you-go basis with a total of $7.375 million allocated for these transportation improvements. These funds became 100% available as of July 1, 2017; however, many years of work have been spent on moving this project forward.

In 2005, the City of Flagstaff acquired APN 103-21-002, a 9.58-acre site known as the “Fresquez Parcel” for approximately $2.7 million. This purchase was the first step in moving this transportation project to fruition and provides the majority of right-of-way necessary to accomplish the Beulah Boulevard extension. In order to accomplish the University Avenue/Drive realignment, the ADOT District Offices and Regional Laboratory need to be relocated.

Following the acquisition of the Fresquez parcel, the City and ADOT began to explore options for partnerships in order to relocate the ADOT facilities. In July 2009, the Arizona P3 (Public-Private-Partnership) Legislation was passed, allowing for partnerships between a public agency (in this case two public agencies) and a private-sector entity to allow greater participation in the delivery of a transportation project. Typically, the public agency assumes all the risks and responsibilities for a transportation project, but under the P3 the private partner takes on some of those risks and responsibilities. The Flagstaff P3 is the first time this initiative has been used to acquire new facilities for ADOT, which will free up land for roadway improvements and redevelopment. A Memorandum of Understanding was executed on March 28, 2012, and set out the parameters for how this P3 project would function. The City and ADOT would combine the remainders of their parcels after right-of-way

dedication to be used for redevelopment. The redevelopment parcel would then be traded from ADOT to the developer for relocated ADOT facilities.

ADOT issued a Request for Qualifications in March 2012 to solicit a private partner who could relocate the ADOT facilities allowing for the construction of the road improvement project. The selected private sector partner was Vintage Partners, who proposed to relocate the ADOT facilities to the former Harkins Theater on Woodlands Village Boulevard. The P3 project was formalized through a Pre-Development Agreement (PDA) between Vintage, the City, and ADOT in December 2014. The PDA provides an overview of the various transactions, authorizes Vintage Partners to prepare and submit required materials for a Site Plan and Rezoning application for ADOT and City property located between Milton Parkway and Beulah Avenue, provides an anticipated schedule, requires an implementation agreement between ADOT and Vintage Partners, provides the term of the agreement, provides remedies for disputes and includes miscellaneous provisions required for an ADOT P3 project.

On August 21, 2017, the City Council approved the Reinstatement of, and First Amendment to the P3 Pre-Development Agreement extending the term to December 31, 2017; on December 19, 2017, a Second Amendment was approved that extended the term to March 31, 2018; on March 20, 2018, a Third Amendment was approved that extended the term to June 30, 2018.

On April 17, 2018, City Council approved the Development Agreement (DA) between the City and Vintage Partners. The DA provides for the sequence of approvals to facilitate the conveyance of the City Property to ADOT, the relocation of ADOT to the former Harkins Site, and the recordation of the final plat. It acknowledges that other agreements, including an Inter-Governmental Agreement between the City and ADOT, and an Implementation Agreement between ADOT and Vintage, will also speak to the timing and conditions for the property transfers from the City to ADOT, and ADOT to Vintage.

On August 18, 2018, City Council approved an IGA between the City and ADOT in order to facilitate the completion of the Project.

On December 3rd, 2019, City Council approved the Mill Town Final Plat.

On October 19th, 2021, City Council approved Ordinance No. 2021-18 authorizing the acquisition of property interests for the Project (project name differed).

Key Considerations:

Securing appraisal services will allow the City to secure the property acquisitions which will enable the City to complete planned roadway improvements

Community Benefits and Considerations:

The Milton Road and University Avenue Right of Way Project has been identified as an important project to incrementally address traffic congestion on Milton Road.

Community Involvement:

Inform - The public voiced opinions on the proposed P3/Mill Town project during a public hearing which occurred prior to the rezone and development agreement which were approved by the City Council on April 17, 2018.
Involve - Public participation was included in the rezoning process.
Collaborate - P3/Mill Town is certainly a collaboration between the State, City, and Vintage Partners, LLC, a private company, and the public who commented during the public hearing on the rezoning.
Empower - The voters of Flagstaff approved the 2000 Transportation Tax which funded the Fresquez acquisition and the $7.4 million programed in the Capital program for the University/Beulah roadway improvements.

Attachments: COF contract 2022-98

COOPERATIVE PURCHASE CONTRACT
Contract No. 2022-98

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 Appraisal Technology, LLC an Arizona Limited Liability Company ("Contractor").

RECITALS:

A. Contractor is a fully authorized provider of Real Estate Appraisal Valuation Services;

B. The State of Arizona, Procurement Department, Public Sector conducted a competitive and open procurement process through Request for Proposal Solicitation No. ADSPO18-00007749 that resulted in Contract No. ADSP018-193523 with Contractor ("Agency Contract"); and

C. Contractor is an real estate appraisal firm as described in the Agency Contract; and

D. 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 services, as specified in the Scope of Work or *Exhibit A* submitted to the City in accordance with the Agency Contract. General description of services being purchased:

Real Estate Appraisal Services for the
Milton Road and University Avenue Right of Way Project

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

3. Payment: Payment to the Contractor for the materials and or services provided for sixty-one thousand five hundred dollars **($61,500.00) in addition to 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, including, specifically changes in price for the materials.

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.

Appraisal Technology, LLC, an Arizona Limited Liability Corporation:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

EXHIBIT A

Specific Requirements of the City

APPRAISAL SERVICES FOR MILTON ROAD AND UNIVERSITY AVENUE PROJECT

GENERAL INFORMATION:

City is requesting a summary appraisal report for each of the affected parcels.

The purpose of the appraisal report is to estimate the fair market value of the property interests and just compensation to be paid for their acquisition.

The report is intended for City use to acquire property interests for the Milton Road and University Avenue Project ("the Project"). Project is funded in part by Arizona Department of Transportation ("ADOT").

No owner relocations will be necessary and/or the Project is not subject to the federal Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ("Relocation Act").

The client and intended user of the appraisals is the City of Flagstaff, an Arizona municipal corporation. Arizona Department of Transportation is a project partner.

The appraisal services will be provided in a single phase.

The City's point of contact (POC) is:

Bryce Doty, Real Estate Manager
City Hall
211 W. Aspen Avenue
City of Flagstaff, Arizona 86001
928-213-2072
Bryce.doty@flagstaffaz.gov

PROPERTY INTERESTS TO BE APPRAISED:

The properties are located in unincorporated Coconino County, Arizona. A map of the Project area is attached as Exhibit 1.

The property interests to be appraised are listed on Exhibit 2.

Property information, legal descriptions, title reports, and environmental assessments for the property interests to be appraised are hosted on a file sharing site accompanying this statement of work.

City shall promptly provide Appraiser with any other additional information required to complete the appraisal services, including but not limited to:

- Engineering designs;
- Assistance in identifying if taking will result in reduction of parking spaces, landscaping or other improvements (Appraiser may request City to provide aerial photographs of showing boundaries of property rights to be acquired superimposed on the parcel);
- Assistance in identifying if taking will result in any nonconforming use (e.g. loss of required setbacks or required parking);
- Assistance in identifying if landscaping is required to be restored per the Project or local zoning, or whether previously landscaped areas razed during construction may be converted to parking.

EXTRAORDINARY ASSUMPTIONS:

There are no extraordinary assumptions for this assignment. If the appraiser identifies an issue that may require an extraordinary assumption, the POC shall be notified immediately for specific written approval.

HYPOTHETICAL CONDITION:

No hypothetical conditions are allowed without specific written approval from the POC.

APPRAISAL REPORT REQUIREMENTS:

Any assignments completed for the City shall be performed in accordance with current federal laws, Arizona Statutes, and Uniform Standards for Professional Appraisal Practice (USPAP)(as defined nationally by the Appraisal Foundation and the Appraisal Standards Board (ASB) and as subsequently adopted in Arizona), as these apply to appraisals in Arizona and/or to federal related projects.

Appraiser shall prepare each appraisal in a narrative format as either an "Appraisal Report" or "Restricted Report" (for client use only) as defined by USPAP.

EFFECTIVE DATE AND DATE OF REPORT:

Both the effective valuation date of the appraisal and the date of the report shall be included in the introductory section of the report. The term effective date shall be used to identify the date of value. Date of the report identifies the date the report is written.

MARKET VALUE:

The state of Arizona definition of Market Value will apply.

"Fair market value" means the most likely price estimated in terms of money which the land would bring if exposed for sale in the open market, with reasonable time allowed in which to

find a purchaser, buying with knowledge of all uses and purposes to which it is adapted and for which it is capable." (Arizona Revised Statutes § 12-1136 (1))

EXPOSURE TIME:

The appraiser shall not link an estimate of value to a specific exposure time. Fair market value presumes that the subject property was on the market for a reasonable length of time prior to the effective date.

OWNER CONTACT AND PROPERTY VISITATION:

The appraiser shall contact the owners of each property at least one (1) week prior to the appraisal or their designated representative to obtain permission to inspect the property and offer them the opportunity to accompany the appraiser during the site visit. The appraiser shall make a personal visit to each property. The appraisal report shall state the owner's or designated representative's name, address, telephone number, and the date(s) of contact. The appraiser shall briefly describe the owner's/designee's participation in the site visit and summarize any comments made by the owner/designee regarding the proposed acquisition.

TEN-YEAR HISTORY OF THE SUBJECT PROPERTY:

Appraiser shall include the 10-year record of all sales and, if available, any offers to buy or see the subject property. If no sale of the property has occurred in the past 10-years, report the last sale of the property, irrespective of date.

RENTAL HISTORY:

When the parcel appraisal problem requires valuation of building improvements, the appraiser shall report the lease history of the property for at least the past three (3) years if possible. All current leases shall be reported including the date, name of tenant, rental amount, term of the lease, and other pertinent lease provisions.

LEGAL DESCRIPTION:

The appraiser shall be furnished a legal description of the subject properties. The appraiser should verify the legal description on the ground as the site visit is made and with the owner, if possible. If a significant error is found, the appraiser shall report it to the POC immediately.

PROPERTY IMPROVEMENTS:

When the parcel appraisal problem requires valuation of building improvements, the appraiser shall include measurements and photographs of all property improvements including any tenant improvements. Any personal property items shall be identified in the report but not valued. Salvage value of improvements does not need to be valued, as Relocation Act is not applicable.

APPRAISAL FORMAT:

The appraisal report shall include an appraiser's signed statement certifying that:

- The statements of fact contained in this report are true and correct; the analyses, opinions, and conclusions are limited only by the reported assumptions, limiting

conditions, and legal instructions, and are the personal, unbiased professional analyses, opinions, and conclusions of the appraiser;
- The appraiser has no present or prospective interest in the property appraised and no personal interest or bias with respect to the parties involved;
- The compensation received by the appraiser for the appraisal is not contingent on the analyses, opinions, or conclusions reached or reported;
- The appraisal was made and the appraisal report prepared in conformity with USPAP.
- The appraiser has made a personal visit to the property appraised and the property owner, or his/her designated representative, was given the opportunity to accompany the appraiser during the site visitation;
- No one provided significant professional assistance to the appraiser. (If professional assistance was provided the appraiser, the name of the individual(s) providing such assistance must be stated and their professional qualifications should be included in the addenda of the appraisal report. This requirement includes both professional appraisal assistance and providers of subsidiary assistance, e.g., planning and permitting consultants, engineers, cost estimators, marketing consultant.)

The appraiser may also add to their certification certain items that may be required by law, USPAP, and the appraiser's professional organization. Non-pertinent items shall not be included.

APPRAISER'S CERTIFICATION:

The appraisal report shall include an appraiser's signed statement certifying that:

- The statements of fact contained in this report are true and correct; the analyses, opinions, and conclusions are limited only by the reported assumptions, limiting conditions, and legal instructions, and are the personal, unbiased professional analyses, opinions, and conclusions of the appraiser;
- The appraiser has no present or prospective interest in the property appraised and no personal interest or bias with respect to the parties involved;
- The compensation received by the appraiser for the appraisal is not contingent on the analyses, opinions, or conclusions reached or reported;
- The appraisal was made and the appraisal report prepared in USPAP;
- The appraiser has made a personal visit to the property appraised and the property owner, or his/her designated representative, was given the opportunity to accompany the appraiser during the site visitation;
- No one provided significant professional assistance to the appraiser. (If professional assistance was provided the appraiser, the name of the individual(s) providing such assistance must be stated and their professional qualifications should be included in the addenda of the appraisal report. This requirement includes both professional appraisal assistance and providers of subsidiary assistance, e.g., planning and permitting consultants, engineers, cost estimators, marketing consultant.)

The appraiser may also add to their certification certain items that may be required by law, USPAP, and the appraiser's professional organization. Non-pertinent items shall not be included.

PHOTOGRAPHS AND MAPS:

The appraiser shall include photos of all major improvements, any unusual or unique features on the subject properties. Each photo should be numbered and show the identification of the property, the date taken, the name of the person taking the photo, and the direction of the camera lens.

The appraiser should be aware that if the City of Flagstaff is unable to voluntarily acquire the property interests, the land may be substantially altered and improvements demolished prior to a final decision in a condemnation trial. Photos are important in documentation of the condition of the subject property as of the effective date of the appraisal.

Photos of each comparable sale are also required and each photo shall include the date taken and the name of the person taking the photo.

Maps should be legible and show directional orientation. The locations of the comparable sales and the subject property should be shown on the same maps so that the reader of the report can understand the relative proximity.

COMPARABLE SALES:

Documentation of each comparable sale shall include the name of the buyer and seller, date of the sale, type of sale instrument, document recording information, sale price, terms of the sale, location, zoning, present use, high and best use, and a brief physical description of the property. A plot plan or sketch shall also be included. Inclusion of transfer document (deed or contract) is not required or desirable unless it is unusual. The contracted appraiser shall personally visit each comparable used in the analysis.

ENVIRONMENTAL ISSUES:

The subject properties are to be appraised "as is" as of the effective date of the appraisal. Inclusion of the assumption that the property is free of contamination from hazardous substances when there is evidence by past use of the property or by the appraiser's site visit that the property may, in fact, be contaminated is not acceptable.

APPRAISER QUALIFICATIONS AND STATE CERTIFICATION:

The appraiser selected must be licensed in the State of Arizona as a General Certified Real Estate Appraiser. The appraiser must also have the knowledge and experience to complete the assignment competently as required by the USPAP Competency Rule.

COPIES OF APPRAISAL REPORT:

The appraiser shall submit a signed electronic file version for the property appraised.

DUE DATE AND ACCEPTANCE OF REPORTS:

Draft appraisals shall be due 75 to 90 days after the Notice to Proceed is issued by the City. The appraisal reports will be reviewed by the City for compliance with the terms of this Statement of Work. Findings of inadequacy, if any will require clarification and/or correction.
Final appraisals shall be due within 30 days after City submittal of written comments on the draft appraisals to appraiser.

CONFIDENTIALITY:

The appraiser's valuations and appraisal reports are considered confidential information and the appraiser should not divulge his findings and opinions to anyone except to the client.

PRICING:

See attached Letter from Appraisal Technologies, Exhibit 3.

ATTACHMENTS:

Exhibit 1 Map of Project Area

Exhibit 2 Easement Forms

Exhibit 3 Letter from Appraisal Technologies

Exhibit 1

PLOTTED: Sep 19, 2019–5:04pm

W. FOREST MEADOWS ST.

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

APN: 103–32–002B
GATEWAY CENTRE
HSUAN PARTNERSHIP
260 W FOREST MEADOWS ST
FLAGSTAFF, AZ 86001
ZONING: HC

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

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

APN: 112–24–019
HAVEN FLAGSTAFF REAL ESTATE LLC
1 WHITECLIFF LAGUNA
NIGUEL, CA 92577
ZONING: RR

W. UNIVERSITY AVE.

THIS PORTION OF EXISTING UNIVERSITY AVENUE TO BE CONVEYED TO THE OWNER OF UNIVERSITY SQUARE APARTMENTS PER DEVELOPMENT AGREEMENT W/ CITY OF FLAGSTAFF
1,007 SQ FT
0.03 ACRES

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

APN: 103–20–059C
ASPEN LEAF APARTMENTS
10632 N. SCOTTSDALE RD. NO B466
SCOTTSDALE, AZ 85254
ZONING: HC

EXISTING UNIVERSITY AVENUE TO BE CONVEYED TO VINTAGE PARTNERS PER DEVELOPMENT AGREEMENT W/ CITY OF FLAGSTAFF
16,408 SQ FT
0.38 ACRES

BU-01,02,03

S. BEULAH BLVD.

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

S. YALE ST.

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

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

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

STATE OF ARIZONA PARCEL BOUNDARY (TYP)

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

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

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

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

S. MILTON RD.

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

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

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

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

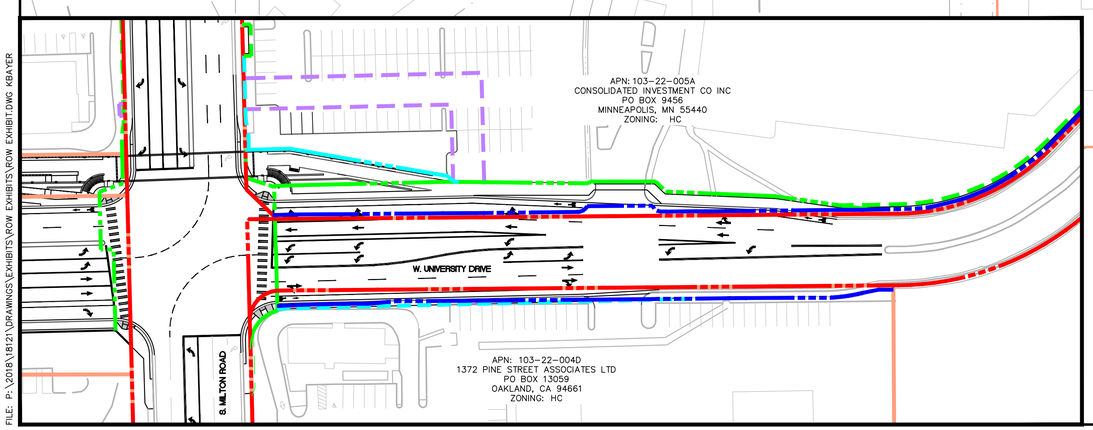
APN: 103–22–004D
1372 PINE STREET ASSOCIATES LTD
PO BOX 13059
OAKLAND, CA 94661
ZONING: HC

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

W. UNIVERSITY DR.

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

SEE INSET



LEGEND

- BOUNDARY SURVEY REQUIRED
- EXISTING RIGHT–OF–WAY
- PROPOSED RIGHT–OF–WAY W/O IMPROVEMENTS
- PROPOSED RIGHT–OF–WAY FOR CITY ROAD PROJECT
- PROPOSED RIGHT–OF–WAY FOR PED. UP./NAIPTA IMPROVEMENTS
- PROPOSED SIDEWALK EASEMENT
- SLOPE EASEMENT
- DRAINAGE/UTILITY EASEMENT
- FEE PROPERTY

NOTES:
1. SIDEWALK EASEMENTS ARE COLORED TO REPRESENT THE ENTITY RESPONSIBLE FOR PAYMENT (AS SHOWN BY ROW COLORS).

NORTH

SCALE 1" : 100'
0 50 100

PRELIMINARY
NOT FOR CONSTRUCTION, BIDDING OR RECORDING

FILE: P:\2018\18121\DRAWINGS\EXHIBITS\ROW EXHIBITS\ROW EXHIBIT.DWG KBAYER

FLAGSTAFF
ARIZONA

BEULAH & UNIVERSITY

ROW EXHIBIT
PROPOSED CONDITIONS

JOB NO:	18121
DATE:	SEP 19
SCALE:	AS SHOWN
DRAWN:	CNP
DESIGN:	CNP
CHECKED:	SCI/KMF

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

Shephard Wesnitzer, Inc.

REVISIONS			
NO.	DESCRIPTION	DATE	BY

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

DRAWING NO.
EX03

SHT NO.	OF
3	3

Exhibit 2

Beulah and University Property Rights

ID	APN	Type of Easement	SqFt	Owner
BU-01	103-32-008A	ROW		BRE/LQ PROPERTIES LLC
BU-02	103-32-008A	FILL SLOPE		BRE/LQ PROPERTIES LLC
BU-03	103-32-008A	TCE		BRE/LQ PROPERTIES LLC
BU-04	103-32-002B	ROW OR SIDEWALK		HSUAN PARTNERSHIP
BU-05	103-32-002B	TCE		HSUAN PARTNERSHIP
BU-06	103-32-001	ROW OR SIDEWALK		FLAGSTAFF HOTEL GROUPP LLC
BU-07	103-32-001	TCE		FLAGSTAFF HOTEL GROUPP LLC
BU-08	103-32-001	PUE		FLAGSTAFF HOTEL GROUPP LLC
BU-09	112-24-016	DRAINAGE EASEMENT	558	WOODLAND VILLAGE APARTMENTS
BU-10	112-24-016	ROW	11,178	WOODLAND VILLAGE APARTMENTS
BU-11	112-24-019	TCE		HAVEN FLAGSTAFF REAL ESTATE LLC
BU-12	103-21-026	FILL SLOPE		VP CINEMA LLC
BU-13	103-21-026 NORTH	FILL SLOPE		VP CINEMA LLC
BU-14	103-21-026	DRAINAGE EASEMENT	492	VP CINEMA LLC
BU-15	103-21-026	TCE		VP CINEMA LLC
BU-16	103-21-026	ROW/BUS EASEMENT		VP CINEMA LLC
BU-17	103-21-26	Sidewalk Easement		VP CINEMA LLC
BU-18	103-21-024	TCE		VP CINEMA LLC
BU-19	103-21-024	FILL SLOPE		VP CINEMA LLC
BU-20	103-21-024	ROW/BUS EASEMENT		VP CINEMA LLC
BU-21	103-21-024	SIDEWALK EASEMENT		VP CINEMA LLC
BU-22	103-20-059D	ROW		UNIVERSITY SQUARE APARTMENTS
BU-23	103-20-059D	TCE		UNIVERSITY SQUARE APARTMENTS
BU-24	103-20-059D	FILL SLOPE		UNIVERSITY SQUARE APARTMENTS
BU-25	103-21-025	PUE	2,293	VP CINEMA LLC
BU-26	103-21-025	TCE		VP CINEMA LLC
BU-27	103-21-025	SIDEWALK		VP CINEMA LLC
BU-28	103-21-25	ROW TO BE COMBINED WITH 103-21-025	16,341	COF
BU-29	103-21-027	TCE		VP CINEMA LLC
BU-30	103-21-027	SIDEWALK EASEMENT		VP CINEMA LLC
BU-31	103-21-021C	TCE		WESTSIDE PROPERTY LLC
BU-32	103-21-003	FILL SLOPE		ELDEN PROPERTIES LLC
BU-33	103-21-003	TCE		ELDEN PROPERTIES LLC
BU-34	103-21-004	FILL SLOPE		ELDEN PROPERTIES LLC
BU-35	103-21-005	FILL SLOPE		ELDEN PROPERTIES LLC
BU-36	103-22-004D	ROW OR SIDEWALK		1372 PINE STREET ASSOCIATES LTD
BU-37	103-22-004D	TCE		1372 PINE STREET ASSOCIATES LTD
BU-38	103-22-005A	ROW	11,905	CONSOLIDATED INVESTMENT CO INC
BU-39	103-22-005A	ROW (ped underpass)	3,417	CONSOLIDATED INVESTMENT CO INC
BU-40	103-22-005A	PUE	6,885	CONSOLIDATED INVESTMENT CO INC
BU-41	103-22-005A	SIDEWALK Milton		CONSOLIDATED INVESTMENT CO INC
BU-42	103-22-005A	Bus stop Milton		CONSOLIDATED INVESTMENT CO INC
BU-43	103-22-005A	SIDEWALK UNIVERSITY		CONSOLIDATED INVESTMENT CO INC
BU-44	103-22-005A	TCE		CONSOLIDATED INVESTMENT CO INC
BU-45	103-21-021B	SIDEWALK	1,342	BURGER KING CORPORATION 1765
BU-46	103-21-021B	TCE		BURGER KING CORPORATION 1765
BU-47	103-21-021B	PUE	84	BURGER KING CORPORATION 1765
BU-48		ROW FROM COF TO ADOT MILTON WEST	2,927	COF
BU-49	103-22-003A	ROW NAU TO ADOT	1,547	UNIVERSITY
BU-50		ROW FROM COF TO ADOT		COF

ATI Real Estate Consulting

APPRAISAL TECHNOLOGY, LLC.

February 2, 2022

Mr. Bryce Doty
Real Estate Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

Re: Appraisal proposal – Milton Road and University Avenue Right of Way project, Flagstaff, AZ

Dear Mr. Doty:

As you have requested, I have made the following proposal for the appraisal of the properties shown on the proceeding page. The appraisals will include the Market Value of the partial acquisition and its impact on the remainder associated with each of the aforementioned properties. We will deliver an electronic PDF of the completed report and three (3) hard copies if desired.

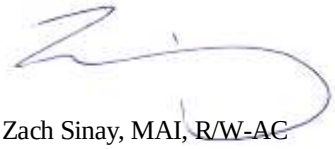
We anticipate delivery to be 75-90 days from receipt of legal descriptions. The delivery date is based upon authorization within 3 weeks of the date of this letter. If approval requires additional time, the delivery date and/or fee may have to be adjusted for changes in the appraiser's schedule. This fee quote is valid for 30 days.

Appraisal Report Format:	Appraisal Report for a real property appraisal **(**Standards Rule 2-2(a))
Intended Use of the Report:	Eminent Domain/Partial Acquisition
Delivery Date:	75-90 Days
Fee:	$61,500 (This fee is good for 30 days from date of quote)
Property Description:	Varying properties
Property Location:	Generally located at Milton Road and University Avenue; Parcel numbers of each property and associated fee is as follows:

Beulah and University Property Owner Tracking			
ID	**APN**	**Owner**	**Fee**
BU-01	103-32-008A	BRE/LQ PROPERTIES LLC	$3,000
BU-02	103-32-008A		
BU-03	103-32-008A		
BU-04	103-32-002B	HSUAN PARTNERSHIP	$3,000
BU-05	103-32-002B		
BU-06	103-32-001	FLAGSTAFF HOTEL GROUPP LLC	$3,000
BU-07	103-32-001		
BU-08	103-32-001		
BU-09	112-24-016	WOODLAND VILLAGE APARTMENTS	$3,750
BU-10	112-24-016		
BU-11	112-24-019	HAVEN FLAGSTAFF REAL ESTATE LLC	$3,250
BU-12	103-21-026	VP CINEMA LLC	$3,500
BU-13	103-21-026 NORTH		
BU-14	103-21-026		
BU-15	103-21-026		
BU-16	103-21-026		
BU-17	103-21-26		
BU-18	103-21-024	VP CINEMA LLC	$3,500
BU-19	103-21-024		
BU-20	103-21-024		
BU-21	103-21-024		
BU-22	103-20-059D	UNIVERSITY SQUARE APARTMENTS	$3,000
BU-23	103-20-059D		
BU-24	103-20-059D		
BU-25	103-21-025	VP CINEMA LLC	$3,500
BU-26	103-21-025		
BU-27	103-21-025		
BU-28	103-21-25	Not A Part	
BU-29	103-21-027	VP CINEMA LLC	$3,750
BU-30	103-21-027		
BU-31	103-21-021C	WESTSIDE PROPERTY LLC	$3,500
BU-32	103-21-003	ELDEN PROPERTIES LLC	$3,000
BU-33	103-21-003		
BU-34	103-21-004	ELDEN PROPERTIES LLC	$3,000
BU-35	103-21-005	ELDEN PROPERTIES LLC	$3,000
BU-36	103-22-004D	1372 PINE STREET ASSOCIATES LTD	$3,500
BU-37	103-22-004D		
BU-38	103-22-005A	CONSOLIDATED INVESTMENT CO INC	$8,750
BU-39	103-22-005A		
BU-40	103-22-005A		
BU-41	103-22-005A		
BU-42	103-22-005A		
BU-43	103-22-005A		
BU-44	103-22-005A		
BU-45	103-21-021B	BURGER KING CORPORATION 1765	$3,500
BU-46	103-21-021B		
BU-47	103-21-021B		
BU-48		Not A Part	
BU-49	103-22-003A	Not A Part	
BU-50		Not A Part	
	TOTAL		$61,500

If these terms are acceptable, please sign and return a copy of this letter as authorization to proceed. I look forward to being of service to you in connection with this assignment. If you have any questions or desire any additional information, please contact Zach Sinay at zsinay@atiaz.com or (480) 285-3868.

Respectfully submitted,



Zach Sinay, MAI, R/W-AC
Certified General Real Estate Appraiser No. 31199

Accepted and Approved this _____ day of _____, 20____.

_____
NAME - OWNER / AGENT / CORPORATE OFFICER

EXHIBIT B
AGENCY CONTRACT

1. January 8, 2018 Agency Contract Award Request for Proposal Solicitation No. ADSPO18-00007749
2. Contract Extension to January 28, 2022
3. Contract Extension to January 28, 2023

Attachment 1

Offer and Acceptance Form

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide Error! Reference source not found. to in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	**1.** 11/30/2017							
	date	initial						
Revised Offers:	**2.**		**3.**			**4.**		
	date #1	initial	date #1	initial		date #1	initial	
	5.		**6.**			**7.**		
	date #4	initial	date #5	initial		date #6	initial	
Best and Final Offer:	**8.**							
	date	initial						

Appraisal Technology, LLC		
Offeror company name	Signature of person authorized to sign Offer	Initials
220 South River Drive	Jeff W. Windle, Managing Member	
Address	Printed name and title	
Tempe, AZ 85281	Jeff W. Windle, MAI	
City | State | ZIP	Contact name and title	
81-4908542	jwindle@atiaz.com	480-285-3864
Federal tax identifier (EIN or SSN)	Contact Email Address	Contact phone number

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

1. will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41−1461 through 1465;
2. has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
3. complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
4. is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

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

State's Contract No. is: ADSPO18-193523 **The effective date of the Contract is:** 1-29-18 **Contract awarded** 1-8-18

RJAdvani	**Rocky Advani**
Procurement Officer signature	Procurement Officer printed name

Part 2: Scope, Pricing and Terms and Conditions

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SECTION 2-A: Scope of Work

1. STATEMENT OF NEED

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

To ensure statewide coverage, it is the State's intent to award multiple contracts to establish a pool of appraisers, appraisal reviewers and real estate consultants (hereafter referred to as Vendors). The selection of Vendors from the pool to provide these services for an assignment will be determined by the Using Entity.

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

2. DEFINITIONS

Arizona Certified General Appraiser/Review Appraiser: this classification applies to the appraisal or appraisal review of all types of real property both commercial and residential.

Real Estate Consultant: any responsible and/or certified person (with proven experience and/or schooling) that provides consultation services, feasibility studies, marketability studies, and other real estate related studies.

3. SCOPE OF WORK

Vendors shall provide services in any or all of the following three categories: 1) General Real Property (commercial) Appraisal Services; 2) Appraisal Review Services; and, 3) Real Estate Consulting Services. Vendors shall have the competency, training, education, qualifications and the required certification and licensing (if applicable) in the services they will provide. Vendors shall not be approved to provide both appraisal and appraisal review services on the same project.

Category 1: General Real Property (Commercial) Appraisal Services - includes the valuation of commercial real property in conformance with the Uniform Standards of Professional Appraisal Practice

(USPAP) and conformance with the Using Entity Appraisal guidelines. Commercial real property is identified as commercial land and/or improvements as well as residential land and/or improvements. Vendors in this category are also permitted to appraise residential property. Valuation may include the valuation of easements, rights-of-way, undivided or future interests, or similar rights in a tract of land.

May include fractional ownership interests including minerals, timber, growing crops, fixtures, or similar interests severable from the land.

May includes before and after valuations, if the appraisal assignment involves a partial acquisition. Partial acquisition will require analysis of severance damages, cost-to-cure, and/or special benefits.

Category 2: Appraisal Review Services - includes the review of commercial appraisals for the appropriateness and reasonableness of the conclusions; conformance with the Uniform Standards of Professional Appraisal Practice (USPAP), and conformance with the Using Entity Appraisal Guidelines.

The reviewer will provide a written review (written to USPAP and Using Entity Guidelines) outlining the appropriateness of the appraisal report in meeting appraisal standards, any areas of disagreement that the reviewer could not resolve with the appraiser but that do not ultimately affect the final value conclusion and/or the reviewer's revised opinion of value if the reviewer is unable to concur with the appraised value. Notably, any opinion of value rendered by a reviewer must conform to USPAP and Using Entity Appraisal Guidelines.

Category 3: Real Estate Consulting Services - includes consulting services in conjunction with one or more of the following task areas: Real Estate Marketability Studies; Real Estate Highest and Best Use Studies; Real Estate Feasibility Studies; Market Rent Studies; Planning and Zoning Studies, and Research specific to the needs of the Using Entity.

All Categories: General Real Property (Commercial) Appraisal Services, Appraisal Review Services, and Real Estate Consulting Services:

a. The type, extent and duration of services provided by the Vendor, and project cost(s) shall be established between the Using Entity and the Vendor prior to the provision of services.

b. The Vendor will be contacted when the Using Entity determines a need for the services. When services are requested, the Vendor shall prepare a bid indicating the proposed services and fee as directed by the Using Entity. The Using Entity may authorize the Vendor to proceed with the task by issuance of a purchase order. The Vendor may not proceed with any task, until written authorization is provided by the Using Entity.

c. Task Assignment changes defining and limiting the work and compensation must be authorized in writing by the Using Entity in advance.

d. The Vendor shall not bid on appraisal, review or consulting assignments when the Vendor is the owner of the subject of the appraisal, review or consultation. Further, the Vendor shall not later agree to represent a property owner located within any particular project where the Vendor has provided appraisal services unless given express authorization and permission from the Using Entity.

e. The Vendor covenants that no public or private interest exists and none shall be acquired directly or indirectly which would conflict in any manner with the performance of the Vendor's contract.

4. MINIMUM QUALIFICATIONS

All Vendors providing services in any of the three categories shall have the proper competency, training, education, qualifications, relevant experience, knowledge, and applicable certifications, which qualify the individual(s) to successfully provide the required services described herein, in accordance with the USPAP and Using Entity's Guidelines.

Vendors in Category 1 must possess a current Arizona Certified General Real Estate Appraiser Certificate and at least 5-years of commercial appraisal experience with verifiable experience appraising vacant residential and commercial land and improvements. Experience in the valuation of rights-of-way and easements, as well as experience in condemnation appraising are also positives but not requirements.

Vendors in Category 2 must possess a current Arizona Certified General Real Estate Appraiser certificate along with experience in reviewing commercial appraisals.

Vendors in Category 3 must have verifiable experience in one or more of the following task areas: Real Estate Marketability, Real Estate Feasibility studies, Real Estate Rental Studies; Planning and Zoning Studies; and, Research specific to the needs of the Using Entity.

5. VENDOR RESPONSIBILITIES

IF AWARDED, THE VENDOR SHALL COMMUNICATE VIA PHONE, EMAIL, OR LETTER WITH THE USING ENTITY TO OBTAIN SPECIFIC ASSIGNMENT REQUIREMENTS, GUIDELINES, POLICIES AND PROCEDURES.

Any assignments completed for the Using Entity shall be performed in accordance with current Federal laws, Arizona Statutes, and USPAP (as defined nationally by the Appraisal Foundation and the Appraisal Standards Board (ASB) and as subsequently adopted in Arizona), as these apply to appraisals in Arizona and/or to Federal related projects.

The Vendor shall prepare each appraisal in a narrative format as either an "Appraisal Report" or "Restricted Report" as defined by USPAP as requested by the Using Entity. Typically, the Using Entity will determine the appraisal type. Appraisal Reviews will also be completed per USPAP in a narrative format. Typically, the Using Entity will provide a proper review format for the Vendor's use. Vendors providing consulting services will determine the proper report format with the Using Entity at the time of the assignment. The content of each appraisal report must be consistent with the intended use. Changes to the review report format or content shall require approval by the Using Entity. The Using

Entity shall establish the report format and number of reports required, for appraisals, appraisal review and consulting, and shall have final approval for the report content and submission deadline for draft and final reports.

Electronic files (in PDF format) for drafts and final reports will be required. Hard copy reports are no longer required unless specifically requested by the Using Entity.

Deliver the report to the Using Entity on the date and time mutually agreed upon. Failure to deliver the report on the agreed upon due date shall result in the assessment of liquidated damages as reimbursement for the administrative costs of the delay in the amount of $300.00 per report for each business day beyond the due date, excluding state holidays. If a Vendor cannot deliver the report to the Using Entity in the agreed upon time, the Vendor must submit in writing (email is adequate) a request for extension to the Using Entity Representative and must receive a confirmation that the extension has been granted.

Correct any errors and/or furnish any omitted required documentation as determined by the Using Entity or its authorized representative at no additional cost to the Using Entity within five (5) business days of notification. Failure to deliver corrected documentation within the time frame shall result in the assessment of liquidated damages as reimbursement for the Using Entity's administrative costs of the delay in the amount of $300.00 per report for each business day beyond the due date, excluding state holidays.

6. USING ENTITY RESPONSIBILITIES

THE USING ENTITY SHALL PROVIDE THE VENDOR WITH SPECIFIC ASSIGNMENTS, REQUIREMENTS AND APPLICABLE POLICIES AND PROCEDURES.

In accordance with the Using Entity's Guidelines, Policies and Procedures, the Using Entity of this contract shall provide or make available the following, if applicable and if available:

Parcel maps, right-of-way plans, engineering reports, ALTA Surveys, Title Reports, Environmental Site Assessments, Soils Reports, Jurisdictional Wash Determinations, Zoning Documents, Site Plans, Architectural Plans, and all pertinent documents and information contained in the Using Entity’s files.

Specific directives for the Vendor work as required, as well as legal guidance and/or interpretation pertaining to right-of-way assignments.

Written description of the services required, due date for submission of the draft appraisal and written authorization to proceed with specified work.

7. VENDOR SELECTION AND ASSIGNMENTS

The Using Entity makes no guarantee as to the amount of work to be assigned to any Vendor and may exercise its option not to utilize the services requested herein.

The Using Entity is under no financial obligation to any selected Vendor unless the Using Entity issues a Purchase Order for a specific assignment.

To the extent possible, a pool of Vendors will be contacted on a rotation basis. However, it may be in the Using Entity's best interest to contact only one pool Vendor or to contact specific pool Vendors without regard to a rotation.

Each Vendor contacted will have the opportunity to indicate their availability and prepare a proposed inclusive fixed fee for the work assignment. This will commonly be completed via email. If subcontract work or specialized service is required for the assignment, the Vendor must identify such cost separately. If additional subcontracting work or specialized service is required after the award of the assignment, the Vendor must obtain prior approval from the Using Entity prior to subcontracting.

A Vendor shall not submit a bid for any assignment within any particular project where the Vendor had any implied or expressed personal and/or business relationship with a property owner, buyer, or seller. Further, the Vendor shall not later agree to represent a property owner located within any particular project where the Vendor has provided appraisal services to the Using Entity without written permission from the Using Entity.

The Using Entity will select the Vendor who best addresses the Using Entity's requirements. If the Using Entity cannot reach an agreement with the selected Vendor, the Using Entity may select another Vendor from the pool. The Using Entity reserves the right to rebid the work assignment as needed. Selection of a Vendor to perform an assignment shall not be made solely on the basis of price, though price will be a major consideration. Other considerations include, but are not limited to: geographic competency; property type; Vendor specializations; turnaround time; Vendor's turn in the rotation; etc.

EXHIBITS TO THE SCOPE DOCUMENT

No Exhibits apply to the Scope of Work.

End of Section 2-A

SECTION 2-B: Pricing Document

1.0 Compensation

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

1.2 CONTRACTED LABOR RATES.

2.0 Reserved

2.1 COST-REIMBURSEMENT.

Reserved

3.0 Pricing

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

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

4.0 Funding

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

5.0 Invoicing

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

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

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

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

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

1. Services that have not been authorized.

6.0 Payments

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

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

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

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

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

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

7.0 Exhibits to the Pricing Document

None

End of Section 2-B

SECTION 2-C: Special Terms and Conditions

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

MODIFIED or ADDED Provision

APPEND the following to the referenced paragraph:

3.14 Orders

3.14-**S1** USE OF THE CONTRACT. The Contract is to be used as follows (indicated by the "●" mark):

●	The Contract is a "statewide" contract for multiple purchases, projects, or assignments, and can be purchased against by some or all Eligible Agencies and any Co-Op Buyers that elect to participate. Even if only one Eligible Agency needs or elects to purchase against the Contract, it is to be construed as being a "statewide" contract hereunder. The Contract is an indefinite delivery, indefinite quantity (ID/IQ) type of contract; it is to be construed as a "delivery order" sub-type of ID/IQ contract to the extent the Work is Materials, and a "task order" sub-type to the extent the Work is Services (Subpart 16.5 of the Federal Acquisition Regulation provides reference explanations).

MODIFIED or ADDED Provision

APPEND the following to the referenced paragraph:

3.14 Orders, *continued*

3.14-**S2** ORDERING METHODS. Unless a particular ordering method is specified in the Commercial Document, Contractor shall receive Orders by the methods indicated by an "●" mark below.

3.14-S2(a) The choice of method in each instance will be at the discretion of each Eligible Agency or Co-Op Buyer if more than one method applies to the Contract.

3.14-S2(b) Contractor shall bear the responsibility for and costs of set-up, maintenance, and support for the indicated methods; The Eligible Agency or Co-Op Buyer will not be liable for any separate set-up, service or system maintenance charges on top of the contractual item prices unless expressly stated otherwise in the Commercial Document.

●	Online through ProcureAZ by "releasing" established Contract "Items."

MODIFIED or ADDED Provision
APPEND the following to the referenced paragraph: **3.14** **Orders**, *continued* 3.14-**S3** EXCLUSIVITY. Exclusivity of scope or location applies as indicated by the "●" mark below: ● The Contract has been awarded with the understanding and agreement that it is for the sole convenience of State, and State reserves the right to obtain like materials or services from another source when necessary without penalty or obligation.

MODIFIED or ADDED Provision
APPEND the following to the referenced paragraph: **3.15** **Statewide Contract Provisions** 3.15-**S1** The administrative fee under subparagraph 3.15(3) is **one (1%) percent** against all sales to Co-Op Buyers under the Contract.

	MODIFIED or ADDED Provision
	APPEND the following to the referenced paragraph: **6.2** **Insurance** 6.2-**S1** Contractor shall provide the insurance specified in Exhibit 1 to these Special Terms and Conditions for each "Insurance Package" (Tables A-E) and "Add-On" (Table F) indicated by a "●" mark in the table below. 6.2-S2 Subcontractors shall provide insurance equivalent to what is required from Contractor at **100% (one hundred percent)** of Contractor's required minimums for all coverages other than Damage to Rented Premises, which is unchanged if that coverage applies to the Contract.

EXHIBITS to the Special Terms and Conditions

Exhibits 1, 2, and 3 apply as described above. The other Exhibits (if any are listed) apply to those portions of the Work the Exhibit covers. For example, an Exhibit providing supplemental provisions for federal work applies to any portions of the Work that are federally-funded, and an Exhibit providing supplemental provisions for privacy protection applies to any portions of the Work that involve handling of protected or private information.

- **Exhibit 1..... Contractor Insurance Requirements**

NOTE: The completed Attachment 3-D [*Performance Guarantee*] from Accepted Offer will become Exhibit 2 to the Special Terms and Conditions – accordingly, there is no "Exhibit 2" document included as part of the Solicitation.

- **Exhibit 2.....** Not used – number reserved
- **Exhibit 3.....** Not used – number reserved
- **Exhibit 4.....** Not used – number reserved
- **Exhibit 5.....** Not used – number reserved
- **Exhibit 6.....** Not used – number reserved

End of Section 2-B

SECTION 2-D:

Uniform Terms and Conditions

Version: 11.3 (7/21/2016)

1.0 Definition of Terms

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

1.1 Acceptance

"Acceptance" means the document headed "Offer and Acceptance Form" bearing the State contract number once Procurement Officer has signed it to signify (1) State's formal acceptance of the Accepted Offer and (2) the formation of the Contract. For clarity of intent, the foregoing is not to be confused with the term "acceptance" used throughout the Contract in the context of delivery, inspection, etc., with respect to Materials or Services.

1.2 Accepted Offer

If State did not request a Revised Offer, then "Accepted Offer" means the Initial Offer.

If State did request a Revised Offer but not a Best and Final Offer, then "Accepted Offer" means the latest Revised Offer.

If State requested a Best and Final Offer, then "Accepted Offer" means the Best and Final Offer.

1.3 Arizona Procurement Code; A.R.S.; A.A.C.

"Arizona Procurement Code, "A.R.S.," and "A.A.C." are each defined in the Instructions to Offerors.

1.4 Arizona TPT

"Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at:

https://www.azdor.gov/business/transactionprivilegetax.aspx.

1.5 Attachment

"Attachment" means any item that:

1. the Solicitation required Offeror to submit as part of the relevant Offer (e.g., Initial Offer, Revised Offer, or BAFO);
2. was attached to an Offer when submitted; and
3. was included in the Accepted Offer.

1.6 Building Work

"Building Work" means everything covered by the definitions in A.R.S. § 41-2503 [*Definitions*] of the terms "construction" (para. 4), "maintenance services" (para. 26), and "operations services" (para. 28).

1.7 Commercial Document

"Commercial Document" means Section 2-B of Part 2 of the Solicitation Documents, provided that, if there is no such Section in the Contract, then "Commercial Document" is to be construed as referring to whatever item in the Contract contains the contracted pricing and payment provisions.

1.8 Contract

"Contract" means, collectively, the Acceptance, the Solicitation Documents, the Accepted Offer, all acknowledged Orders, and any Contract Amendments. See paragraph 1.22. The Contract is identified as a "Purchase Order" in ProcureAZ, since that is the terminology used in the software; use of that term in ProcureAZ is not to be confused with the contractual term "Order" defined in paragraph 1.21.

1.9 Contract Amendment

"Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution. The term "Change Order" in ProcureAZ is to be construed as being synonymous with "Contract Amendment".

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

1. "Release" or "Release Purchase Order" in ProcureAZ;
2. "task order", "service order," or "job order" when a Release Purchase Order for Services has already been committed in ProcureAZ; or
3. "purchase order" for buying by Co-Op Buyers, if co-op buying applies.

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

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

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

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

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

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

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

https://procure.az.gov/

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

1.27 Services "Services" has the meaning given in A.R.S. § 41-2503(35), which, for convenience of reference only, is "… the furnishing of labor, time, or effort by [the] [C]ontractor or [S}ubcontractor which does not involve the delivery of a specific end product other than required reports and performance [but] does not include employment agreements or collective bargaining agreements." Services includes Building Work and the service aspects of software described in paragraph 1.19.

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

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

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

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

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

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

1.34	**Subcontract**	"Subcontract" means any contract, express or implied, between Contractor and another party or between a Subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any Materials, the performing of any Services, or the carrying out of any other aspect of the Work.
1.35	**Subcontractor**	"Subcontractor" has the meaning given in A.R.S. § 41-2503(38), which, for convenience of reference only, is "… a person who contracts to perform work or render service to … [C]ontractor or to another [S]ubcontractor as a part of a contract with a state governmental unit . . ."The Contract is to be construed as "a contract with a state governmental unit" for purposes of the definition. For clarity of intent, a Person carrying out any element of the Work is a Subcontractor from the moment they first carry out that element of the Work regardless of whether or not a Subcontract exists then or subsequently.
1.36	**Uniform Terms and Conditions**	The "Uniform Terms and Conditions" are made up of this document and whichever of the Appendices are indicated in the Special Terms and Conditions as being applicable.
1.37	**Work**	"Work" means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor's obligations and duties under the Contract in conformance with the Contract and applicable laws.

2.0 Contract Interpretation

2.1	**Arizona Law**	The Contract is governed by and is to be interpreted in accordance with the laws of the State of Arizona, including the Arizona Procurement Code, without consideration of conflict of laws principles.
2.2	**Implied Terms**	Each provision of law and any terms required by law to be in the Contract are a part of the Contract as if fully stated in it.
2.3	**Usage**	Where the Contract:

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

debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes" in every instance;

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

2.4 Contract Order of Precedence

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

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

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

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

2.5 Independent Contractor

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

2.6 Severability

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

2.7 Complete Integration

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

2.8 No Waiver of Rights

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

3.0 Contract Administration and Operation

3.1 Term of Contract

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

3.2 Contract Extensions

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

3.3 Notices and Correspondence

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

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

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

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

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

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

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

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

3.4 Signing of Contract Amendments

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

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

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

3.5 Click-Through Terms and Conditions

Unless expressly stated otherwise in the Special Terms and Conditions, if either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

3.6 Books and Records

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

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

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

3.7 Contractor Licenses

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

3.8 Inspection and Testing

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

3.9 Ownership of Intellectual Property

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

(a) "Government Purpose Rights" are:

i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display,

sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;

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

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

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

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

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

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

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

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

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

3.10 Subcontracts

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

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

3.10.3 FLOW-DOWN. Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract by inclusion or by reference, as appropriate. When making any post-execution consent requests, Contractor shall include its warrant that it will do the same for the pending Subcontracts covered by the request. Entering into

Subcontracts will not relieve Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the work of Subcontractors. Nothing contained in any Subcontract will create or is to be construed as creating any contractual relationship between State and the Subcontractor.

3.11 Non-Discrimination

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

3.12 E-Verify Requirements

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

3.13 Offshore Performance of Certain Work Prohibited

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

3.14 Orders

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

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

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

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

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

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

3.15 Statewide Contract Provisions

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

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

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

14. Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).

15. Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. The fee rate is specified in the Special Terms and Conditions. Failure to remit the administrative fees is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

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

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

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

17. Contractor shall acknowledge each Order from Eligible Agencies within 1 (one) business day after receipt by either: (a) "approving" the Order electronically in ProcureAZ, which will indicate Contractor's unqualified acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in ProcureAZ, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which Contractor may reject or refuse an Order are those set out in subparagraph 3.14.3 [*Orders are Obligatory*]. Unless and until Contractor has approved the Order in ProcureAZ, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically in ProcureAZ within 3 (three) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in ProcureAZ and if it does so the rejection will be void.

18. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental

participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

3.16 Multiple-Use Provisions

If the Special Terms and Conditions indicate that the Contract is for statewide use, then Eligible Agencies may issue Orders for Services in several forms, all of which become final and effective by a "Release Purchase Order" in ProcureAZ. Orders issued by Co-Op Buyers will be in whatever form the Co-Op Buyer normally uses. Regardless of origin, Orders must cite the State contract number to be valid. State may, at its discretion in each instance, determine the scope, schedule, and price for each Order in any of the following ways:

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

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

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

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

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

3.17 Other Contractors

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

3.18 Work on State Premises

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

anyone for whom Contractor is responsible is a material breach of contract and grounds for termination for default.

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

3.19 Advertising, Publishing and Promotion of Contract

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

4.0 Costs and Payments

4.1 Payments

4.1.1 PAYMENT DEADLINE. State shall make payments in compliance with Arizona Revised Statues Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Commercial Document, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Commercial Document, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in ProcureAZ and provided a current IRS Form W-9 to State unless excused by law from providing one.

4.1.2 PAYMENTS ONLY TO CONTRACTOR. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, State will only make payment to Contractor under the federal tax identifier indicated on the Accepted Offer.

4.2 Applicable Taxes

4.3.1 CONTRACTOR TO PAY ALL TAXES. State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the Commercial Document, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.

4.3.2 TAX INDEMNITY. Contractor shall hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well any related costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.

4.3 Availability of Funds

By A.R.S. § 35-154, every State payment obligation under the Contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the Contract, State may terminate the Contract at the end of the period for which funds are available, or, at State's discretion, allow appropriate amendment to the Contract. No liability will accrue to State if it exercises the foregoing right or discretion, and State will have no obligation or liability for any future payments or for any damages as a result of having exercised it.

5.0 Contract Changes

5.1 Contract Amendments

The Contract is issued for State under the authority of Procurement Officer. Only a Contract Amendment can modify the Contract, and then only if it does not change the Contract's general scope. Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the Contract based on any such purported changes.

5.2 Assignment and Delegation

5.2.1 IN WHOLE. Contractor shall not assign in whole its rights or delegate in whole its duties under the Contract without Procurement Officer's prior written consent, which consent Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving State satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when State first awarded it the Contract.

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

6.0 Risk and Liability

6.1 Risk of Loss

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

6.2 Contractor Insurance

Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The Insurance Requirements herein are minimum requirements for this Contract and in no way, limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

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

1. Commercial General Liability (CGL) – Occurrence Form

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

General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$1,000,000

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

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

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

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

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

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

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$1,000,000
Disease – Each Employee	$1,000,000
Disease – Policy Limit	$1,000,000

a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor that is exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

4. Professional Liability (Errors and Omissions Liability)

Each Claim	$ 2,000,000
Annual Aggregate	$ 4,000,000

a. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, the Contractor warrants that any retroactive date under the Policy shall precede the effective date of this Contract and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

b. The Policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Contract.

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

a. The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

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

NOTICE OF CANCELLATION: Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be electronically submitted via email to AZStateContractCOI@azdoa.gov and rocky.advani@azdoa.gov **(State of Arizona, State Procurement Office, 100 N 15th Ave, Suite 402, Phoenix AZ 85007).**

ACCEPTABILITY OF INSURERS: Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
2. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
3. All certificates required by this Contract shall be sent directly to **(Deepika Bajpayee 100 N 15th Ave, Suite 402, Phoenix AZ 85007)**. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.**

SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all

subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum insurance requirements identified above. The State reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

APPROVAL and MODIFICATIONS: The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

6.3 Basic Indemnification

6.3.1 CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless State Indemnitees from Indemnified Basic Claims that: (a) are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor Indemnitor; (b) arise out of or are recovered under worker compensation laws; and/or (c) arise out of a Contractor Indemnitor's failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor Indemnitors shall indemnify the relevant State Indemnitees from and against Indemnified Basic Claims in all instances except where the Indemnified Basic Claim arises solely from those State Indemnitees' own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for an on behalf of the other Contractor Indemnitors with respect to State Indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor Indemnitors. In consideration of the award of the Contract by a State Indemnitee, Contractor hereby waives all rights of subrogation against State Indemnities for losses arising from the Work.

If Contractor is a public agency, this paragraph does not apply and subparagraph 6.3.2 below applies instead.

6.3.2 PUBLIC AGENCY. Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

If Contractor is not a public agency, this paragraph does not apply and subparagraph 6.3.1 above applies instead.

6.4 Patent and Copyright Indemnification

CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:

23. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
24. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;

25. State may elect to participate in such action at its own expense; and
26. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations.

If Contractor is a public agency, this paragraph 6.4 does not apply.

6.5 Force Majeure

6.5.1 DEFINITION. For this paragraph, "force majeure" means an occurrence that is (a) beyond the control of the affected party, (b) occurred without the party's fault or negligence, and (c) something the party was unable to prevent by exercising reasonable diligence. Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and, subject to paragraph 7.8 [*Performance in Public Health Emergency*], declared public health emergencies. Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure, or inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.

6.5.2 RELIEF FROM PERFORMANCE. Except for payment of sums due, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

6.5.3 EXCUSABLE DELAY IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.

6.5.4 DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.

6.6 Third Party Antitrust Violations

Contractor assigns to State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

7.0 Warranties

7.1 Liens

Contractor warrants that the Materials and Services when accepted will be and will remain free of liens or other encumbrances.

7.2 Conformity to Requirements

Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for 1 (one) year after acceptance and in each instance: (1) conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any

Contractor affirmations included as part of the Contract; (2) be free from defects of material and workmanship; (3) conform to or perform in a manner consistent with current industry standards; and (4) be fit for the intended purpose or use described in the Contract. Mere delivery or performance does not substitute for express acceptance by State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation, the forgoing warranty will not begin until State's acceptance.

7.3 Contractor Personnel

Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.

7.4 Intellectual Property

Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.

7.5 Compliance with Laws

Contractor warrants that the Materials and Services do and will continue to comply with all applicable federal, state, and local laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the non-compliance.

7.6 Licenses and Permits

Contractor warrants that it will maintain all licenses required under paragraph 3.7 [*Contractor Licenses*] and all required permits valid and in force.

7.7 Operational Continuity

Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.2 [*Assignment and* Delegation] that expressly recognizes the event.

7.8 Performance in Public Health Emergency

Contractor warrants that it will:

27. have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum: (a) identification of response personnel by name; (b) key succession and performance responses in the event of sudden and significant decrease in workforce; and (c) alternative avenues to keep sufficient product on hand or in the supply chain; and
28. provide a copy of its current plan to State within 3 (three) business days after State's written request. If Contractor claims relief under paragraph 6.5 [*Force Majeure*] for an occurrence of forge majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.

For clarification of intent, being obliged to implement the plan is not of itself an occurrence of force majeure, and Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a material breach of contract.

7.9 Lobbying

7.11.1 PROHIBITION.

(a) Contractor warrants that:

i. it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract,

provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and

ii. upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety.

(b) Contractor shall implement and maintain adequate controls to assure compliance with *(a)* above.

(c) Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.

7.11.2 EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.

7.10 Survival of Warranties

All representations and warrants made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

8.0 State's Contractual Remedies

8.1 Right to Assurance

If State in good faith has reason to believe that Contractor does not intend to, or is unable to, perform or continue performing under the Contract, Procurement Officer may demand that Contractor promptly provide written assurance of intent to perform. Failure by Contractor to provide the assurance within the time specified may be the basis for terminating the Contract or for State to exercise any other remedy available to it under the Contract or laws.

8.2 Stop Work Order

The State may at any time require Contractor to stop all or any part of the Work by written order. Upon receipt of a stop order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to State associated with the portions of the Work covered by the order. If Contractor incurs losses, it may make a claim under Article 10.

8.3 Non-exclusive Remedies

State's rights and remedies under the Contract are not exclusive.

8.4 Nonconforming Tender

The Materials provided and Services performed must comply fully with the Contract, and providing Materials or performing Services or any portion thereof that do not comply fully constitutes a breach of contract, in which event State will be entitled to exercise any remedy available to it under the Contract or laws.

8.5 Right of Offset

State is entitled to offset against any sums due Contractor any expenses or costs State incurs or damages it has assessed against it concerning Contractor's non-conforming performance or failure to carry out the Work, including any expenses, costs, and damages to which it is entitled by the Contract or laws.

9.0 Contract Termination

9.1 Termination for Conflict of Interest

By A.R.S. § 38-511, State may terminate the Contract within 3 (three) years after the effective date without penalty or further obligation if any Person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of State is or becomes an employee or agent of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Any such termination will be effective when Contractor receives State's written notice of the termination unless the notice specifies a later date.

9.2 Gratuities

State may, by written notice, terminate the Contract, in whole or in part, if State determines that employment or a Gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of State for the purpose of influencing the outcome of the procurement or the administration of the Contract or any favorable treatment concerning the Contract or performance of the Contract. State, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of 3 (three) times the value of the Gratuity offered by Contractor.

9.3 Suspension or Debarment

State may, by written notice to Contractor, terminate the Contract immediately if State discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. State has taken Contractor's submittal of the Accepted Offer and will take its performance under the Contract as Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify Procurement Officer immediately.

9.4 Termination for Convenience

State may terminate the Contract when in the best interest of State, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the Contract. Upon receipt of State's written termination notice, Contractor shall stop work as directed in the notice, notify all Subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to State. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the Contract will become State's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination, provided that, the cost principles and procedures in A.A.C. R2-7-701 are to be applied.

9.5 Termination for Default

In addition to the rights reserved to it under the Contract, State may terminate the Contract in whole or in part due to Contractor's failure to: (a) comply with any term or condition of the Contract; (b) obtain and maintain all required insurance policies, bonds, licenses, and permits; or (c) make satisfactory progress in carrying out the Work. Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the Contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become State's property, and Contractor shall deliver all of it immediately on demand. State may, following termination of the Contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to State for any excess cost State incurs in procuring such substitutes.

9.6 Continued Performance Required

Contractor shall continue to perform in accordance with the requirements of the Contract up to the effective date of any termination, as directed by State in the notice.

10.0 Contract Claims

10.1 Claim Resolution

Notwithstanding any law to the contrary, all contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder, including judicial review under A.R.S. § 12-1518.

10.2 Mandatory Arbitration

In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements.

11.0 General Provisions for Materials

11.1 Applicability

Article 11 applies to the extent the Work is or includes Materials.

11.2 Off-Contract Materials

Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for off-contract items or excluded items. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded item ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders; State may, at its discretion, return any such items under subparagraph 11.17 or cancel any such Order under subparagraph 11.18, in either case being without obligation and at Contractor's expense. As used above, "off-contract item" refers to any product not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded item" refers to any product expressly stated in the Contract as being excluded from the Contract.

11.3 Compensation for Late Deliveries

Contractor shall have clear, published policies in place regarding late delivery, order cancelation, discounts, or rebates given to compensate for late deliveries, etc., and make them readily available to those Eligible Agencies, and Co-Op Buyers if applicable, that are likely to need them.

11.4 Indicate Shipping Costs on Order

Contractor shall identify and provide the required substantiating documentation for the amount it intends to add for shipping in the Order acknowledgment if shipping is additional to the contracted price or rate for an item; otherwise, Contractor shall indicate that shipping is included in the Order price (in other words, every Order must indicate clearly whether or not shipping is included in the Order price, and if not included, how much is to be added and why that amount is the correct or appropriate one).

11.5 Current Products

Contractor shall keep all products being offered under the Contract: (a) in current and ongoing production; (b) in its advertised product lines; (c) as models or types that are actively functioning in other paying customer environments; and (d) in conformance to the requirements of the Contract.

11.6 Maintain Comprehensive Selection

Contractor shall provide at all times the comprehensive selection of products for which a price is established in the Commercial Document for ordering by Eligible Agencies, and Co-Op Buyers if applicable.

11.7 Additional Products

State, at its discretion, may modify the scope of the Contract by Contract Amendment to include additional products or product categories so long as they are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment has been fully executed, Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. Either party may make the request to add products to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional products, but State may elect not to add some or all of the products in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include: (a) documentation demonstrating that the additional products meet or exceed the specifications for the original products while remaining in the same product groups as the original ones; and
(b) documentation demonstrating that the proposed price for the additional products is both fair and reasonable and at the same level of discount relative to market price as were the original ones. Demonstration of *(b)* typically requires showing how prices at which sales are currently or were last made to a significant number of buyers compare to the prices or discounts (as applicable) being proposed for the additional products.

11.8 Discontinued Products

If a product or groups of products covered by the Contract are discontinued by the manufacturer, Contractor shall notify State within 5 (five) business days after receiving the manufacturer's notification. State, at its discretion, will either allow Contractor to provide substitutes for the discontinued products or delete the products from the scope of the Contract, both of which will be accomplished by Contract Amendment. Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. The parties shall negotiate in good faith a fair price for any substitute product, but State may elect to delete the products from the scope of the Contract if no agreement is reached on substitute pricing in a timely manner. When notifying State of the discontinuance,

Contractor shall provide: (a) manufacturer's announcement or documentation stating that the products have been discontinued, with identification by model/part number; (b) documentation demonstrating that the substitute products meet or exceed the specifications for the discontinued products while remaining in the same product groups as were the discontinued ones; and (c) documentation demonstrating that the proposed price for the substitute products is both fair and reasonable and at the same level of discount relative to market price as were the discontinued ones (with demonstration being as described in subparagraph 11.7).

11.9 Forced Substitutions

Forced substitutions will not be permitted; Contractor shall obtain State's prior written consent before making any discretionary substitution for any product covered by the Contract.

11.10 Recalls

In the event of a recall notice, technical service bulletin, or other important notification affecting a product offered under the Contract (collectively, "recalls" hereinafter), Contractor shall send timely notice to State for each applicable Order referencing the affected Order and product. Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely and without obligation on State's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall.

11.11 Delivery

11.11.1 PRICING. Unless stated otherwise in the Commercial Document, all Materials prices set forth therein are FCA (seller's dock) Incoterms®2010, with "seller's dock" meaning the last place of manufacturing, assembly, integration, final packing, or warehousing before departure to designated point of delivery to State. For reference, the foregoing is to be construed as equivalent to "F.o.b. Origin, Contractor's Facility" under FAR 52.247-30.

11.11.2 LIABILITY. Unless stated otherwise in the Commercial Document or an Order, Contractor's liability for all Materials is DDP (State-designated receiving point per Order) Incoterms®2010, but with unloading at destination included. For reference, the foregoing is to be construed as equivalent to "F.o.b. Destination, Within Consignee's Premises" under FAR 52.247-35.

11.11.3 PAYMENT. Unless stated otherwise in the Commercial Document or an Order, State shall reimburse Contractor the costs of the difference between DDP (State-designated receiving point per Order) and FCA (seller's dock) with no mark-up, which Contractor shall itemize and invoice separately.

11.12 Delivery Time

Unless stated otherwise in the Commercial Document generally or in the applicable Order particularly, Contractor shall make delivery within 2 (two) business days after receiving each Order.

11.13 Delivery Locations

Contractor shall offer deliveries to every location served under the scope of the Contract, specifically:

29. if the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;
30. if the Contract is for a single State agency in all its locations, then Contractor shall deliver to any of that agency's location in Arizona;
31. if the Contract is for statewide use but excludes certain areas, then Contractor shall deliver to any Eligible Agency or Co-Op Buyer location that is not in the excluded areas; and
32. if the Contract is for unrestricted statewide use, then:
    (a) Contractor shall deliver to any Eligible Agency or Co-Op Buyer anywhere in Arizona;
    (b) if a prospective Co-Op Buyer outside Arizona wishes to order against the Contract, Contractor agrees to negotiate in good faith any fair and reasonable price or lead time adjustments necessary to serve that location if practicable to do so within the scope of its normal business; and
    (c) if the Commercial Document indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.

11.14 Conditions at Delivery Location

Contractor shall verify receiving hours and conditions (i.e. height/weight restrictions, access control, etc.) with the relevant purchaser for the receiving site before scheduling or making a delivery. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the verification or comply with the applicable conditions. Contractor shall make each delivery to the specific location indicated in the Order, which Contractor acknowledges might be inside an industrial building, institutional building, low-rise office building, or high-rise office building instead of a normal receiving dock. Contractor might be required to make deliveries to locations inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required for each delivery and driver individually. Contractor shall contact each such facility directly to confirm its most-current security clearance procedures, allowable hours for deliveries, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the confirmation or comply with the applicable conditions.

11.15 Materials Acceptance

State has the right to make acceptance of Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. State will not owe Contractor any payment for rejected Materials, and State may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Contractor in those instances where State has agreed to permit repair instead of demanding replacement.

11.16 Correcting Defects

Contractor shall, at no additional cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials.

33. Contractor shall be solely responsible for the cost of any associated cutting and patching, temporary protection measures, packing and crating, hoisting and

loading, transportation, unpacking, inspection, repacking, reshipping, and reinstallation if installation is within the scope of the Contract.

34. If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

35. Whether State will permit Contractor to repair in place or demands that Contractor remove and replace is at State's discretion in each instance, provided that, State shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on State's part.

11.17 Returns

State may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within 30 (thirty) days after receipt. If State elects to return delivered Materials, then State shall pay all freight, delivery, and transit insurance costs to return the products to the place from which Contractor shipped them, provided that, if State returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then State will not be responsible for paying freight, delivery, or transit insurance costs to return the products and may, at its discretion, either have those billed directly to Contractor or offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

11.18 Order Cancellation

State may cancel Orders within a reasonable period after issuance and at its discretion. The same method as that used for ordering will be used for cancellation. If State cancels an Order, then State shall:

36. pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date plus 1 (one) additional business day;

37. reimburse Contractor for:

    (a) its actual, documented costs incurred in fulfilling the Order up to the cancellation effective date plus 1 (one) additional business day; and

    (b) the cost of any obligations it incurred as of the cancellation effective date plus 1 (one) additional business day that demonstrably cannot be canceled, or that have pre-established cancelation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question; and

38. Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancelation notice plus 1 (one) business day or for any lost profits or opportunity.

By way of reminder, State is not liable for any products that were produced, shipped, or delivered or any services that were performed before Contractor had acknowledged the corresponding Order.

11.19 Product Safety

Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

11.20 Hazardous Materials

Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for State to comply

with regulations when it or its other contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but State (and this Contract) use only the more up-to-date "SDS" reference. Contractor shall ensure that all its relevant personnel understand the nature of and hazards associated with, to the extent it they are Contractor's responsibility under the Contract, the design, shipping, handling, delivery, installation, repair and maintenance of any portion of the Work that is, contains or will become upon use a hazardous material, with "hazardous material" being any material or substance that is: (1) identified now or in the future as being hazardous, toxic or dangerous under applicable laws; or (2) subject to statutory or regulatory requirement governing special handling, disposal or cleanup.

12.0 General Provisions for Services

12.1 Applicability

Article 12 applies to the extent the Work is or includes Services.

12.2 Comprehensive Services Offering

Contractor shall provide the comprehensive range of services for which a price is established in the Commercial Document for ordering by Eligible Agencies, and Co-Op Buyers if co-op buying applies.

12.3 Additional Services

State at its discretion may modify the scope of the Contract by Contract Amendment to include additional services or service categories that are within the general scope of the ones originally covered by the Contract if it determines that doing so is in its best interest. Once the Contract Amendment is fully executed, Contractor shall then update all applicable price lists and make them available to all affected entities at no additional cost. Either party may make the request to add services to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional services, but State may elect not to add some or all of the services in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include documentation demonstrating that the proposed price for the additional services is both fair and reasonable and comparable to the original ones.

12.4 Off-Contract Services

Contractor shall ensure that the design and/or procedures for the Services ordering method prevents Orders for off-contract or excluded services. Notwithstanding that State might have its own internal administrative rules regarding off contract or excluded service ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders. State may, at its discretion, cancel any such Order without obligation. As used above, "off-contract service" refers to any service not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded service" refers to any service expressly excluded from the scope of the Contract.

12.5 Removal of Personnel

Notwithstanding that Contractor is in every circumstance responsible for hiring, assigning, directing, managing, training, disciplining, and rewarding its personnel, State may at its discretion and without the obligation to demonstrate cause instruct Contractor to remove any of its personnel from State's facilities or from further assignment under the Contract. In such cases, Contractor shall promptly replace them with other personnel having equivalent qualifications, experience, and capabilities.

12.6 Transitions

During commencement, Contractor shall attend transition meetings with any outgoing vendors to coordinate and ease the transition so that the effect on State's operations

is kept to a minimum. State may elect to have outgoing vendors complete some or all of their work or orders in progress to ease the transition as is safest and most efficient in each instance, even if that scope is covered under the Contract. Conversely, State anticipates having a continued need for the same materials and services upon expiration or earlier termination of the Contract. Accordingly, Contractor shall work closely with any new (incoming) vendor and State to ensure as smooth and complete a transfer as is practicable. State's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Contractor and the incoming vendor. As with the incoming transition. State may permit Contractor (outgoing) to complete work or orders in progress to ease the transition as is safest and most efficient in each instance.

12.7 Accuracy of Work

Contractor is responsible for the accuracy of the Services, and shall promptly make all necessary revisions or corrections resulting from errors and omissions on its part without additional compensation. Acceptance by State will not relieve Contractor of responsibility for correction of any errors discovered subsequently or necessary clarification of any ambiguities.

12.8 Requirements at Services Location

Contractor personnel shall perform their assigned portions of the Services at the specific location indicated in the Order (if applicable). Contractor acknowledges that the location might be inside an industrial building, institutional building, or one of various office types and classes. Additionally, if performing the Services requires Contractor personnel to work inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required, Contractor shall contact the facility directly to confirm its most-current security clearance procedures, allowable hours for work, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late performance if Contractor has failed to make the confirmation or comply with the applicable conditions.

12.9 Services Acceptance

State has the right to make acceptance of Services subject to acceptance criteria. State may apply as acceptance criteria conformity to the Contract, accuracy, completeness, or other indicators of quality or other matter for which the Contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. State will not owe Contractor any payment for un-accepted Services; and State may, at its discretion, withhold or make partial payment for any rejected Services if Contractor is still in the process of re-performing or otherwise curing the grounds for State's rejection.

12.10 Corrective Action Required

Notwithstanding any other guarantees, general warranties, or particular warranties Contractor has given under the Contract, if Contractor fails to perform any material portion of the Services, including failing to complete any contractual deliverable, or if its performance fails to meet agreed-upon service levels or service standards set out in or referred to in the Contract, then Contractor shall perform a root-cause analysis to identify the source of the failure and use all commercially reasonable efforts to correct the failure and meet the Contract requirements as promptly as is practicable.

39. Contractor shall provide to State a report detailing the identified cause and setting out its detailed corrective action plan promptly after the date the failure occurred (or the date when the failure first became apparent, if it was not apparent immediately after occurrence).

40. State may demand to review and approve Contractor's analysis and plans, and Contractor shall make any corrections State instructs and adopt State's recommendations so far as is commercially practicable, provided that State may insist on any measures it determines within reason to be necessary for safety or protecting property and the environment.

41. Contractor shall take the necessary action to avoid any like failure in the future, if doing so is appropriate and practicable under the circumstances.

13.0 Data and Information Handling

13.1 Applicability

Article 13 applies to the extent the Work includes handling of any (1) State's proprietary and sensitive data or (2) confidential or access-restricted information obtained from State or from others at State's behest.

13.2 Data Protection and Confidentiality of Information

Contractor warrants that it will establish and maintain procedures and controls acceptable to State for ensuring that State's proprietary and sensitive data is protected from unauthorized access and information obtained from State or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by State, or prepared by others for State are proprietary to State, and all information by those same avenues is State's confidential information. To comply with the foregoing warrant:

42. Contractor shall: (a) notify State immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (b) cooperate with State to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (c) notify State promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and

43. Contractor shall not: (a) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the Contract, unless State has agreed otherwise in advance and in writing; or (b) respond to any requests it receives from a third party for such data or information, and instead route all such requests to State's designated representative.

13.3 Personally Identifiable Information.

Without limiting the generality of paragraph 13.2, Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees' or other contractors or members of the general public that it receives from State or otherwise acquires in its performance under the Contract.

For purposes of this paragraph:

44. PII has the meaning given in the [federal] Office of Management and Budget (OMB) *Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information*; and

45. "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) *Directive CIO P* 2180*.1 GSA Rules of Behavior for Handling Personally Identifiable Information*.

NOTE (1): For convenience of reference only, the OMB memorandum is available at:

https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf

NOTE (2): For convenience of reference only, the GSA directive is available at:

http://www.gsa.gov/portal/directive/d0/content/658222

13.4 Protected Health Information

Contractor warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

46. is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (a) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (b) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) State's current and published PHI/ePHI privacy and security policies and procedures;

47. will cooperate with State in the course of performing under the Contract so that both State and Contractor stay in compliance with the requirements in *(1)* above; and

48. will sign any documents that are reasonably necessary to keep both State and Contractor in compliance with the requirements in *(1)* above, in particular "Business Associate Agreements" in accordance with the Privacy Rule.

NOTE: For convenience of reference only, the Privacy Rule is available at:

http://www.hhs.gov/hipaa/for-professionals/privacy/index.html

14.0 Information Technology Work

14.1 Applicability

Article 14 applies to any Invitation for Bids, Request for Proposals, or Request for Quotations for "Information Technology," as defined In A.R.S. § 41-3501(6) 6: " . . . computerized and auxiliary automated information processing, telecommunications and related technology, including hardware, software, vendor support and related services, equipment and projects" if and to the extent that the Work is or includes Information Technology.

14.2 Background Checks

Each of Contractor's personnel who is an applicant for an information technology position must undergo the security clearance and background check procedure, which includes fingerprinting, as required by A.R.S § 41-710. Contractor shall obtain and pay for the security clearance and background check. Contractor personnel who will have administrator privileges on a State network must additionally provide identify and address verification and undergo State-specified training for unescorted access, confidentiality, privacy, and data security.

14.3 Information Access

14.3.1 SYSTEM MEASURES. Contractor shall employ appropriate system management and maintenance, fraud prevention and detection, and encryption application and tools to any systems or networks containing or transmitting State's proprietary data or confidential information.

14.3.2 INDIVIDUAL MEASURES. Contractor personnel shall comply with applicable State policies and procedures regarding data access, privacy, and security, including prohibitions on remote access and obtaining and maintaining access IDs and passwords. Contractor is responsible to State for ensuring that any State access IDs and passwords are used only by the person to whom they were issued. Contractor shall ensure that personnel are only provided the minimum only such level of access necessary to

perform his or duties. Contractor shall on request provide a current register of the access IDs and passwords and corresponding access levels currently assigned to its personnel.

14.3.3 ACCESS CONTROL. Contractor is responsible to State for ensuring that hardware, software, data, information, and that has been provided by State or belongs to or is in the custody of State and is accessed or accessible by Contractor personnel is only used in connection with carrying out the Work, and is never commercially exploited in any manner whatsoever not expressly permitted under the Contract. State may restrict access by Contractor personnel, or instruct Contractor to restrict access their access, if in its determination the requirements of this subparagraph are not being met.

14.4 Pass-Through Indemnity

14.4.1 INDEMNITY FROM THIRD PARTY. For computer hardware or software included in the Work as discrete units that were manufactured or developed solely by a third party, Contractor may satisfy its indemnification obligations under the Contract by, to the extent permissible by law, passing through to State such indemnity as it receives from the third-party source (each a "Pass-Through Indemnity") and cooperating with State in enforcing that indemnity. If the third party fails to honor its Pass-Through Indemnity, or if a Pass-Through Indemnity is insufficient to indemnify State Indemnitees to the extent and degree Contractor is required to do by the Uniform Terms and Conditions, then Contractor shall indemnify, defend and hold harmless State Indemnitees to the extent the Pass-Through Indemnity does not.

14.4.2 NOTIFY OF CLAIMS. State shall notify Contractor promptly of any claim to which a Pass-Through Indemnity might apply. Contractor, with reasonable consultation from State, shall control of the defense of any action on any claim to which a Pass-Through Indemnity applies, including negotiations for settlement or compromise, provided that:

(a) State reserves the right to elect to participate in the action at its own expense;

(b) State reserves the right to approve or reject any settlement or compromise on reasonable grounds and if done so timely; and

(c) State shall in any case cooperate in the defense and any related settlement negotiations.

14.5 Systems and Controls

In consideration for State having agreed to permit Pass-Through Indemnities in lieu of direct indemnity, Contractor agrees to establish and keep in place systems and controls appropriate to ensure that State funds under this Contract are not knowingly used for the acquisition, operation, or maintenance of Materials or Services in violation of intellectual property laws or a third party's intellectual property rights.

14.6 Redress of Infringement.

14.6.1 REPLACE, LICENSE, OR MODIFY. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing on, any third party's intellectual property rights, then Contractor shall at its sole cost and expense and in consultation with State either:

(a) replace any infringing items with non-infringing ones;

(b) obtain for State the right to continue using the infringing items; or

(c) modify the infringing item so that they become non-infringing, so long as they continue to function as specified following the modification.

14.6.2 CANCELLATION OPTION. In every case under 14.6.1, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, State may cancel the relevant Order or terminate the Contract and Contractor shall take back the infringing items. If State does cancel the Order or terminate the Contract, Contractor shall refund to State:

(a) for any software created for State under the Contract, the amount State paid to Contactor for creating it;

(b) for all other Materials, the net book value of the product provided according to generally accepted accounting principles; and

(c) for Services, the amount paid by State or an amount equal to 12 (twelve) months of charges, whichever is less.

14.6.3. EXCEPTIONS. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee:

(a) modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor;

(b) operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitor; or

(c) combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor.

14.7 First Party Liability Limitation

14.7.1 LIMIT. Subject to the provisos that follow below and unless stated otherwise in the Special Terms and Conditions, State's and Contractor's respective first party liability arising from or related to the Contract is limited to the greater of $1,000,000 (one million dollars) or 3 (three) times the purchase price of the specific Materials or Services giving rise to the claim.

14.7.2 PROVISOS. This paragraph 14.7 limits liability for first party direct, indirect, incidental, special, punitive, and consequential damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph 14.7 does not limit liability arising from any:

(a) Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph 6.3;

(b) claim against which Contractor has indemnified State Indemnitees under paragraph 6.4; or

(c) provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies.

14.7.2 PURCHASE PRICE DETERMINATION. If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 14.7.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all change orders or other forms of Contract Amendment having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order.

14.7.3 NO EFFECT ON INSURANCE. This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not.

14.8 Information Technology Warranty

14.8.1 SPECIFIED DESIGN. Where the Scope of Work (Section 2-A of the Solicitation) for information technology Work provides a detailed design specification or sets out specific performance requirements, Contractor warrants that the Work will provide all functionality material to the intended use stated in the Contract, provided that, the foregoing warranty does not extend to any portions of the Materials that are:

(a) modified or altered by anyone not authorized by Contractor to do so;

(b) maintained in a way inconsistent to any applicable manufacturer recommendations; or

(c) operated in a manner not within its intended use or environment.

14.8.2 COTS SOFTWARE. With respect to Materials provided under the Contract that are commercial-off-the-shelf (COTS) software, Contractor warrants that:

(a) to the extent possible, it will test the software before delivery using commercially available virus detection software conforming to current industry standards;

(b) the COTS software will, to the best of its knowledge, at the time of delivery be free of viruses, backdoors, worms, spyware, malware, and other malicious code that could hamper performance, collect unlawfully any personally identifiable information, or prevent products from performing as required by the Contract; and

(c) it will provide a new or clean install of any COTS software that State has reason to believes contains harmful code.

14.8.3 PAYMENT HAS NO EFFECT. The warranties in this paragraph are not affected by State's inspection, testing, or payment.

14.9 Specific Remedies

Unless expressly stated otherwise elsewhere in the Contract, State's remedy for breach of warranty under paragraph 14.8 includes, at State's discretion, re-performance, repair, replacement, or refund of any amounts paid by State for the nonconforming Work, plus (in every case) Contractor's payment of State's additional, documented, and reasonable costs to procure materials or services equivalent in function, capability, and performance at that first called for. For clarification of intent, the foregoing obligations are limited by the limitation of liability in paragraph 14.7. If none of the forgoing options can reasonably be effected, or if the use of the materials by State is made impractical by the nonconformance, then State may seek any remedy available to it under law.

15.0 Comments Welcome

Separate and apart from this solicitation, the State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments the public may have.

The public may submit comments to:

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

End of Section 2-D

End of Part 2

	Contract Amendment	**Arizona Department of Administration** **State Procurement Office** **100 N. 15th Avenue, Suite 402** **Phoenix, AZ 85007**
	Legacy Contract: ADSPO18-193523	
	CTR042816 APP Amendment 3	

Real Estate Appraisal Valuation Services

Appraisal Technology LLC

This Amendment Number 3 to extend the Contract period of January 29, 2021 through January 28, 2022 is hereby executed in accordance with the Uniform Terms and Conditions, Section 3.2 Contract Extension and Section 5.1 Amendments.

RECITALS

The State and Supplier entered into that certain agreement title Master Service Agreement effective as of January 29, 2018 pursuant to which Supplier is to provide Real Estate Appraisal Valuation Services.

Thereafter, Amendment Number 1 to extend the Contract period of January 29, 2019 through January 28, 2020 was executed on January 08, 2019.

Thereafter, Amendment Number 2 to extend the Contract period of January 29, 2020 through January 28, 2021 was executed on January 23, 2020.

ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED

ACKNOWLEDGEMENT AND AUTHORIZATION

This amendment shall be fully executed upon the electronic approval in the State e-Procurement system by the Procurement Officer or delegate.

ARIZONA

Contract: CTR041419-1 - - Real Estate Appraisal Valuation Services

Contract Header

Label
Real Estate Appraisal Valuation Services

Supplier
APPRAISAL TECHNOLOGY LLC

Currency
USD

Co-Op Contract Designation
yes

Type
Master Agreement

Contract Code
CTR041419-1

Contract Amount
0.00

Contract Scope

Organizations
State of Arizona

Commodities
Real estate appraisal and valuation service

Contract Validity

Start Date
1/29/2018

Extended to Date
1/28/2023

End Date
1/28/2023

Documents

- ADSPO18-193523-ADSPO18-00007749 Solicitation Amendment No.2.pdf
- Contract Amendment Contract Extension 3.pdf
- COI AL WC Exp 11_2021.PDF
- ADSPO18-193523-Procurement File - ADSPO18-0007749~3.zip
- ADSPO18-193523-ADSPO18-00007749_RFP_Real Estate Appraisal Valuation Services~1.pdf
- ADSPO18-193523-ADSPO18-00007749 Solicitation Amendment No.1.pdf
- ADSPO18-193523-ADSPO18-00007749_OPEN_FIRST_Real Estate Appraisal Valuation Services.pdf
- ADSPO18-193523-PO T and Cs rev 1-10-11.pdf
- ADSPO18-193523 Contract Extension to 1.28.20 Amendment 1.pdf
- COI ADSPO18-193523 PL_Exp_9_2020_GL_Auto_WC_Exp_11_2020.pdf
- COI PL Exp 9_2021.pdf
- ADSPO18-193523 Amend 2 Contract Extension 1 yr.pdf
- ADSPO18-193523-Contract Documents-Appraisal Technology LLC.pdf
- ADSPO18-193523-ADSPO18-00007749_Offer_Forms_Real Estate Appraisal Valuation Services~1.docx

Items

PR/Order itemsLabel	Product Code
All Categories: General Real Property (Commercial) Appraisal Services, Appraisal Review Services, and Real Estate Consulting Services:price is based on the quote submitted per scope of work	ADSPO18-193523-4
Appraisal Review Services , price is based on the quote submitted per scope of work for each appraisal report ordered. IF OFFEROR IS PROPOSING FOR THIS CATEGORY, FOR PROPOSAL SUBMISSION ONL	ADSPO18-193523-2
Expert Witness Services - Appraisal. ALL OFFERORS SUBMITTING A PROPOSAL ARE REQUIRED TO INPUT AN HOURLY RATE FOR EXPERT WITNESS SERVICES PER THE SCOPE OF WORK. - $150 per hour for junior a	ADSPO18-193523-6
General Real Property (Commercial) Appraisal Services, price is based on the quote submitted per scope of work for each appraisal report ordered. IF OFFEROR IS PROPOSING FOR THIS CATEGORY.	ADSPO18-193523-1
Real Estate Consulting Services , price is based on the quote submitted per scope of work for each appraisal report ordered. IF OFFEROR IS PROPOSING FOR THIS CATEGORY, FOR PROPOSAL SUBMITTI	ADSPO18-193523-3
Real Estate Consulting Services. IF OFFEROR IS PROPOSING FOR THIS CATEGORY AN HOURLY AMOUNT IS REQUIRED IN THE UNIT COST FIELD. - $150 per hour for junior associate.	ADSPO18-193523-5

12. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Neil Chapman, Forest Health Supervisor
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Adoption of Resolution No. 2022-09: A resolution of the Flagstaff City Council, approving an Intergovernmental Agreement between Coconino County and the City of Flagstaff for Prescribed Fire Operations

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-09 by title only
2) City Clerk reads Resolution No. 2022-09 by title only (if approved above)
3) Adopt Resolution No. 2022-09

Executive Summary:

WHEREAS, the Coconino County and City of Flagstaff desire to enter into an Intergovernmental Agreement (IGA) for prescribed fire operations for the County-owned Rogers Lake Natural Area ("Rogers Lake") and Fort Tuthill County Park ("Ft Tuthill");

WHEREAS, the purpose is to plan, conduct, and report on prescribed fire operation – both broadcast and slash/debris pile burning to reduce wildfire threat and to maintain/improve a healthy forest ecosystem

Financial Impact:

The work will be fully (100%) reimbursed to the City by Coconino County. For the duration of this agreement, costs are as follows:

- Broadcast burning - $100/acre for 80 acres or less,
- $75/acre for 81 + acres,
- Add $20/acre if the City of Flagstaff Fire Department is responsible for any pre-ignition site preparation related work,
- Pile burning for $40/acre.

The cost and reimbursement of this agreement will vary year to year but is estimated at $8,000 to $10,000 annually.

Policy Impact:

Allows wildfire risk reduction efforts to continue in priority areas southwest of Flagstaff. In addition, facilitates our partnership with Coconino County and fire management partners.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives
High Performing Governance: Implement innovative local government programs
Safe and Healthy Community: Ensure built environment is safe through the use of consistent standards, rules and regulations, & land use practices
Environmental Stewardship: Promote, protect & enhance a healthy, sustainable environment & its natural resources
Environmental Stewardship: Strengthen Flagstaff's resilience to climate change impacts on built, natural, economic, health, & social systems

Carbon Neutrality Plan
Consolidating carbon stocks in fewer, larger trees reduces the risk of carbon loss from fire.

The pre-suppression forest structure provides the best target for maintaining sustainable carbon stocks and ecological function.

Implementing prescribed fire after mechanical thinning treatments supports the maintenance of the restored natural tree structure and pattern.

Regional Plan
Environmental Planning & Conservation – Vision for the Future: In 2013, the long-term health and viability of our natural resource environment is maintained through strategic planning for resource conservation and protection.
Policy E&C.3.3 – Invest in forest health and watershed protection measures.
Policy E&C.6.1 – Encourage public awareness that the region's ponderosa pine forest is a fire-dependent ecosystem and strive to restore more natural and sustainable forest composition, structure, and processes.
Policy E&C.6.3 – Promote protection, conservation, and ecological restoration of the region's diverse ecosystem type and associated animals.
Policy E&C.6.6 – Support collaborative efforts for forest health initiatives or practices, such as the Four Forest Restoration Initiative (4FRI), to support healthy forests and protect our water system.
Policy E&C.10.2 – Protect, conserve, and when possible, enhance and restore wildlife habitat on public land.

Has There Been Previous Council Decision on This:

This is the first presentation to Council for the 2022 IGA with Coconino County for prescribed burning at Rogers Lake and Ft Tuthill. A similar IGA with Coconino County was approved in 2016.

Options and Alternatives:

Two exist:

1. **Approve** the IGA, permitting needed forest treatment work to proceed as planned, on a fully-reimbursable basis..
2. **Pass** on the IGA, recognizing that the planned work and the direct benefits to the community (reduced wildfire threat and improved ecosystem health and function) will likely not occur without direct City engagement, especially in a timely manner.

Background/History:

Severe and destructive wildfire is an annual and ever-present threat to our forests and the community. Areas that have undergone science based fuel reduction treatments are healthier, more fire adapted, and enhance public safety and infrastructure protection. We have cooperated with Coconino County on past efforts to conduct thinning operations, pile burning and broadcast burning operations at Ft Tuthill County Park and Rogers Lake Natural Area.

Key Considerations:

Both of the designated parcels (FTCP and RLNA) are within the Greater Flagstaff Community Wildfire Protection Plan boundary, and both areas present challenges in managing/suppressing a wildfire due to a variety of factors. Each also is south-southwest of Flagstaff and present a threat to our community if a wildfire starts or moves into either parcel. Each also offers an opportunity to serve as a fuel-break to an approaching wildfire if prescribed fire operations preemptively occur on the parcels. Forest treatments such as prescribed fire has proven highly effective in reducing fire severity both within Flagstaff and elsewhere.

Expanded Financial Considerations:

We have crafted the agreement and established a set price per acre for each service (pile and broadcast) to fully reimburse the City for staff, supplies, and equipment charges incurred.

The costs and reimbursement of this agreement will vary year to year but is estimated at $8,000 to $10,000 annually.

Community Benefits and Considerations:

Multiple partners have been engaged in the land management activities on these two parcels, to include Greater Flagstaff Forests Partnership, The Nature Conservancy, the NAU School of Forestry (via the Centennial Forest Advisory Board) and Ecological Restoration Institute, AZ Game & Fish, US Fish and Wildlife Service, AZ State Forestry, and the County's Rogers Lake Stakeholders group. Successfully completing the planned prescribed fire treatments will enhance protection of our forests, adjacent areas, and the community at-large, while promoting the vigor, resiliency, and sustainability of the trees themselves.

Community Involvement:

Inform and Involve

Attachments: Res. 2022-09
IGA for Rx with County

RESOLUTION NO. 2022-09

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN COCONINO COUNTY AND THE CITY OF FLAGSTAFF FOR PRESCRIBED FIRE OPERATIONS

RECITALS:

WHEREAS, the Coconino County and City of Flagstaff desire to enter into an intergovernmental agreement for prescribed fire operations for the County-owned Rogers Lake Natural Area and Fort Tuthill County Park; and

WHEREAS, the purpose is to plan, conduct, and report on prescribed fire operation – both broadcast and slash/debris pile burning to reduce wildfire threat and to maintain/improve a healthy forest ecosystem.

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Council hereby authorizes the Mayor to execute the Intergovernmental Agreement between Coconino County and the City of Flagstaff, Arizona, attached hereto as Exhibit A.

SECTION 2. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 5th day of April, 2022.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
IGA

INTERGOVERNMENTAL AGREEMENT
FOR
PRESCRIBED FIRE OPERATIONS
between
City of Flagstaff
and
Coconino County

The Scope of Work for this Intergovernmental Agreement ("Agreement") shall be performed by the City of Flagstaff Fire Department ("COF-FD"), on behalf of the City of Flagstaff ("COF"), for Coconino County ("COUNTY") (collectively, “the Parties”).

Purpose: The purpose of the Agreement is to plan, conduct, and report on prescribed fire operations — both broadcast and slash/debris pile burning (each defined below) — on both the County-owned Rogers Lake Natural Area ("RLNA") and the Fort Tuthill County Park (“FTCP”) to reduce wildfire threat and to maintain/improve a healthy forest ecosystem. This Agreement shall begin on the date of full and complete execution and terminate on June 30, 2027.

I) Introduction and Recitals:

The forests of both the RLNA and FTCP support a multitude of values, all which are at risk from wildfire and an unhealthy forest ecosystem. These include recreation, scenic values, watershed integrity, emotional and spiritual ties to the land, wildlife habitat, air quality, public confidence in government, public safety, structures and other infrastructure, and economic vitality.

COF-FD has extensive skills, knowledge, and experience in planning, permitting, conducting, and reporting on prescribed fire operations. The County owns the two parcels and wishes to reduce wildfire threats and ensure overall forest health and sustainability.

In general, annual operations (by Fiscal Year) will be dependent upon COUNTY funding and/or grant funds obtained and dedicated to prescribed fire operations, as agreed upon by both parties no later than September 1st of each year.

II) COF-FD shall:

A) Develop and provide a Prescribed Burn Plan for both RLNA and FTCP to include both Broadcast and Pile burn operations (Exhibit A)

B) The Broadcast Burn component will detail on-site values and hazards, weather parameters, desired fire behavior, expected fire effects, smoke management actions, ignition sequences and patterns, contingency plans, and public notification requirements.

C) The Pile Burn component will detail necessary site and weather conditions to reduce risk and actions to be taken to effectively consume the targeted piles.

D) Secure necessary smoke management permits from AZ Dept of Environmental Quality ("ADEQ") and report accomplishments as required.

E) Coordinate, direct, and conduct all burn operations using trained and supervised wildland fire personnel.

F) Provide necessary orientation and any required training for all other parties, to include County sponsored volunteers and/or staff engaged in pre-ignition site preparation and post-fire monitoring.

G) Coordinate with COUNTY staff regarding the timing of prescribed burn operations so that minimal disruption and/or interruption occurs to various entities conducting research or other natural resource management efforts or scheduled events on either the RLNA or FTCP sites.

III) COUNTY shall:

A) Seek to obtain/allocate funds each year to permit any planned prescribed burn operations to be conducted by COF-PD to proceed as scheduled.

B) Act as primary Point-of-Contact for any/all entities who are conducting research or other natural resource management efforts or events on either the RLNA or FTCP site and provide reminder notifications of scheduled prescribed burns and time periods wherein such entities and their respective research, efforts, or events will not have access to either the RLNA or FTCP site for safety reasons, as recommended by COF-FD, during or immediately following any prescribed burn operations.

C) Coordinate/implement any/all annual pre-ignition mitigation actions identified and required by COF-FD within the designated burn unit for that year.

D) Notify COF-FD of any planned thinning operations or other activities that will result in debris/slash piles that are to be later burned by COF-FD before such work occurs, and ensure that all said debris/slash piles are piled in accordance with COF-FD standards as described in Exhibit A.

E) Assist COF-FD with post-fire monitoring actions as agreed upon with COF-FD.

IV) Description of Work

The different types of burning are described below:

Broadcast Burning is the planned and documented ignition, holding, and monitoring of wildland fire, typically confined to ground debris fuels (needles, downed and dead wood, and scattered slash) over a predetermined area that has been previously prepared to receive fire (for example, control lines identified and/or established, heavy fuel concentrations isolated and/or broken-up, trees near control lines limbed upwards of 4-6 feet above ground level, dead standing trees that are to be retained have had adjacent ground fuels removed). This type of operation occurs in the spring and/or fall. The goal of each burn shall be to reduce accumulated natural fuels, recycle nutrients, improve composition of understory vegetation, improve long-term forest health, and restore the historical fire interval.

Pile Burning is the planned ignition, holding, and monitoring of debris and slash that has previously been gathered into piles and allowed to dry for a sufficient time to ensure efficient consumption. Such work typically occurs during and immediately following a selective tree thinning and/or mechanical harvesting operation: subsequently, piles may be either hand-piles or mechanical piles. This type of operation occurs during winter months when snow is present or during summer monsoon events. To reduce smoke emissions and facilitate efficient burn operations, all such piles are allowed to dry for a minimum of six (6) months before any ignition occurs. The goal of each burn shall be to reduce accumulated activity-generated debris fuels and facilitate future broadcast burns.

Any burn operation under this Agreement shall occur only when current and projected site, fuel, weather, and staffing conditions permit. In addition, adequate consideration will be given to other events or issues on-site or in the area which may affect the operation itself. Working with designated County staff, each factor will be evaluated and interpreted by COF-FD to meet operational requirements safely and effectively prior to any ignition.

V) Deliverables

Acres burned is the primary deliverable. For any given annual burn unit, a written operational plan that details any variance from the Burn Plan and/or details specific issues in that burn unit that need to be addressed shall be prepared by COF-FD and delivered to Coconino County no less than 30 days prior to any planned ignition. Once any given burn operation is declared fully extinguished or "out" by COF-FD, a copy of all documentation related to the deliverable (e.g., fire behavior forms, weather observation forms, burn request, permits, and accomplishment forms, and any photos/videos of the activity) shall be delivered to COUNTY, along with the invoice for said work, within thirty (30) days.

VI) Amount of Agreement

The total amount of reimbursement from the COUNTY to COF-FD for services rendered in any given Fiscal year, incurred under this Agreement, shall not exceed the amount made available by the County for Prescribed Fire operations for that given Fiscal year.

VII) Mutual Indemnification

Except as provided below and to the extent permitted by law, each party to this Agreement (as "Indemnitor") agrees, to defend, indemnify, and hold harmless the other Parties, and such other Parties' officers, officials, employees, agents, and directors (collectively, "Indemnitees") from and against any and all claims, demands, losses, liabilities, causes of action and costs (including expert witness fees, reasonable attorney fees and costs of defense and appellate appeal) herein 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 Indemnitees, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

VIII) Insurance

COF/COF-FD shall maintain adequate insurance to cover any liability arising from the acts and omissions of COF/COF-FD and/or their employees or agents in the performance of this Agreement. COF/COF-FD shall

not be responsible for maintaining insurance to cover liability arising from the acts and omissions of COUNTY'S employees and agents. COUNTY shall maintain adequate insurance to cover any liability arising from the acts and omissions of COUNTY's employees or agents in the performance of this agreement. COUNTY shall not be responsible for maintaining insurance to cover liability arising from the acts and omissions of COF/COF-FD employees and agents.

I) Employment Status

A) Each Party to this agreement will be solely responsible for the acts and omissions of its officers, agents, servants, employees, and volunteers. Each Party is responsible for the payment of all applicable income and employment taxes required by law.

B) An employee of any Party to this Agreement who works under the authority or control of or within the jurisdictional boundaries of another Party to this Agreement pursuant to this Agreement is deemed to be an employee of both public agencies for the purposes of Arizona workers' compensation law, and A.R.S. § 23-1022. The primary employer shall be solely liable for the payment of workers' compensation benefits and for providing all workers' compensation insurance required by law.

C) Each Party to this agreement shall have in force a resolution approved by its elected Board to provide its volunteers with workers' compensation coverage while working in the course and scope of assigned volunteer duties for the host agency. The host agency (either City of Flagstaff or Coconino County) with whom the volunteer signs a volunteer service agreement shall be solely liable for tracking and recording of volunteer registration and service hours for worker's compensation purposes, and for the payment of workers' compensation benefits should a volunteer be injured during assigned volunteer work duties.

D) With the exception of workers' compensation outlined above, each Party will operate as an independent entity and none of the employees of one are considered employees of the other. Employees of either COF, COF-FD, or the COUNTY working under this agreement are not eligible for the other's group health insurance or any other benefits.

E) Each Party will be solely responsible for offering health insurance to its employees as required by the Affordable Care Act, and for any penalties charged to it by the Internal Revenue Service for noncompliance with the Affordable Care Act.

IX) Designated Officer and Authority

Authority to enter into this Agreement for COF (to include COF-FD) is upon approval of the Council for the City of Flagstaff through its Mayor, and, for the COUNTY, upon approval of the Board of Supervisors through its Chair.

X) Financial and Performance Reporting Requirements

A) For the duration of this agreement, costs are as follows:

- Broadcast Burning - $100/acre for 80 acres or less

$75/acre for 81+ acres

NOTE: Add $20/acre for either if COF-FD is responsible for any pre-ignition site preparation related work.

- Pile Burning - $40/acre

B) COF shall submit reimbursement requests and performance reports upon completion of each annual burn operation within 60 days.

C) If any Federal pass-through funds are allocated to this work by the COUNTY, then a closeout audit shall be conducted by County staff or their designee in accordance with the Single Audit Act of 1984, Public Law 98¬502, 98 Stat 2327 (1984; codified at 31 V.S.C., 7501-7507).

XI) Program Performance Requirements

This Agreement shall begin on the date of full and complete execution and terminate on June 30, 2027. The costs primarily follow the amount of personnel time spent on the project, and the equipment and supplies necessary to complete the proposed tasks.

All COF-FD work and products shall be prepared under the direction of the Wildland Fire Management Officer COF-FD or designee. The majority of the work to be performed is implementation of annual burn projects and shall be conducted by COF-FD Wildland Fire Management staff, assisted by other qualified personnel obtained or hired by COF-FD Wildland Fire Management as required for each specific operation and under the direction of Wildland Fire Management Officer COF-FD or designee.

XII) Correspondence and Administration

A) COUNTY shall address all correspondence and notices relative to this Agreement to the attention of:
Stacey Brechler-Knaggs, Grants Manager
City of Flagstaff
211 W. Aspen
Flagstaff, AZ 86001
Telephone: (928) 213-2227
Fax: (928) 213-2599
E-mail: sknaggs@flagstaffaz.gov

B) COF shall address all correspondence and notices relative to this Agreement to the attention of:
Cynthia Nemeth
Parks and Recreation Director
Coconino County, AZ
Telephone: (928) 679-8004
Fax: (928) 774-2572
E-mail: CNemeth@coconino.az.gov

C) The representative for the COUNTY to serve as point of contact for the administration of the scope of work is:
Geoffrey Gross
Coconino County Parks and Recreation
Natural Resource Supervisor
Telephone: 928-310-4798
Fax: 928-774-2572
E-mail: ggross@coconino.az.gov

A) The representative for the COF-FD to serve as point of contact for the administration of the scope of work is:
Neil Chapman
Flagstaff Fire Dept
211 W. Aspen
Flagstaff, AZ 86001
Telephone: (928) 213-2512
E-mail: neil.chapman@flagstaffaz.gov

XIII) Entire Agreement

This agreement constitutes the entire Agreement between the Parties and no waiver of any right, agreement, or conditions herein and no modifications hereof shall be binding upon either of the Parties hereto unless made in writing and signed by all Parties.

SIGNATURE PAGE FOLLOWS IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first above written above.

City of Flagstaff	**Coconino County**
Paul Deasy Mayor	Matt Ryan Chairman, Board of Supervisors
Dated: _____	Dated: _____
Attest:	Attest:
City Clerk	Clerk of the Board

Dated: _____

Approved as to form and as being within the powers and authority granted under the laws of the State of Arizona to the City of Flagstaff:

_____
City Attorney

Dated: _____

Dated: _____

Approved as to form as being within the powers and authority granted under the laws of the State of Arizona to Coconino County:

_____
Deputy County Attorney

Dated: _____

12. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Robert Wallace, Open Space Specialist
Co-Submitter:	Rebecca Sayers
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Adoption of Resolution No. 2022-11: A resolution of the Flagstaff City Council, authorizing the grant agreement for an Arizona State Parks Heritage Fund - Environmental Education grant.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-11 by title only
2) City Clerk reads Resolution No. 2022-11 by title only (if approved above)
3) Adopt Resolution No.2022-11

Executive Summary:

PROJECT DESCRIPTION:
Funding will allow Flagstaff Open Space to promote and provide outdoor environmental protection programs and recreational opportunities for the community, especially for indigenous and historically underrepresented youth. The goal of this program is to provide indigenous youth with the opportunity to learn about environmental STEAM-related fields in conjunction with traditional culture, community, and environmental stewardship. Five objectives will be completed to promote and provide outdoor environmental protection programs.

1. Create outdoor lessons that help eliminate a high school level outdoor environmental STEAM teaching gap by implementing a high school teaching program, building on existing elementary and middle school programming. Staff will research, prepare, and teach these lessons, and the lessons will be available to educators and the general public. Lessons will include an experiential trip to a Flagstaff open space to inspire interest in STEAM careers and environmental stewardship.
2. Continue existing elementary and middle school outdoor educational programming.
3. Provide outdoor community programs that bring understanding on environmental issues and support recreational opportunities.
4. Increase representation of underprivileged community members to encourage outside activity at Flagstaff's Open Spaces via social media, in-person contact, outdoor education events, volunteer recruitment materials, and partnering with community organizations.
5. Increase volunteer capacity to conduct community education, create a presence in open spaces, educate visitors, and complete environmental projects. We will recruit and train new volunteers--focusing on youth and underprivileged populations--provide regular support, offer continuing education, and coordinate volunteer events.

Financial Impact:

Grant funds will provide $50,000 towards a staff position, 77% of a full-time equivalent (based on 35 hours per week) at a rate of $25/hour. The City of Flagstaff Parks, Recreation, and Open Space will provide a $5,500.00 in-kind match. The total cost for the one-year project is $55,500. The budget is available in 001-06-159-6302-5-4290.

Policy Impact:

Overview:

- Supports all 7 PBB Priorities
- Upholds our Quadrant 2 level PBB programming
- Contributes to a number of Carbon Neutrality Plan strategies
- Supports the implementation of the Open Space and Greenways Plan
- Encourages alternative transportation options

Open Space Program Goals:

- Volunteer management
- Customer service
- Educational and recreational activities
- Facilitation of partnerships
- Serve underprivileged populations
- Promote responsible tourism
- Secure funding through grants

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

<u>Priority Based Budget Key Community Priorities and Objectives</u>

- High Performance Governance:
  - Serve the public by providing high quality customer service.
  - Foster community-wide clear and consistent communication strategies and products.
  - Encourage public trust through transparency, accessibility & use of the City's public participation policy.
- Safe and Healthy Community:
  - Provide alternative responses, resources, and programs, inclusive of mental health and other services.
  - Promote physical health through providing recreation opportunities, parks, open space, and multiple transportation options.
- Inclusive and Engaged Community:
  - Foster community pride and civic engagement by increasing opportunities for public involvement, in line with best practices and legal requirements.
  - Enhance community involvement, education, and regional partnerships to strengthen the level of public trust.
  - Ensure city facilities, services, and programs are accessible for all residents and representative of Flagstaff's diverse community.
  - Promote environmental justice and the fair distribution of environmental benefits.
- Sustainable, Innovative Infrastructure:
  - Utilize existing long-range plans that identify the community's future infrastructure needs and all associated costs.
- Robust Resilient Economy:
  - Embrace and invest in responsible tourism opportunities to promote economic development.
- Livable Community:
  - Create a welcoming community through partnerships, resilient neighborhoods, and civic engagement.
  - Provide amenities and activities that support a healthy lifestyle.

    - Support regional partners which provide equitable and inclusive educational opportunities for Flagstaff residents of all ages.
- Environmental Stewardship:
    - Promote, protect, and enhance a healthy, sustainable environment and its natural resources.
    - Engage community members through education and volunteer opportunities.
    - Increase the private sector's participation in environmental stewardship efforts.
    - Strengthen Flagstaff's resilience to climate change impacts on built, natural, economic, health, and social systems.

Carbon Neutrality Plan (CNP)
This funding supports CNP implementation, especially Goal One: Achieve carbon neutrality by 2030; and Goal Two: Prepare Flagstaff's communities, systems, and resources to be more resilient to climate change impacts. The most align CNP carbon neutrality plan numbers are DD-3, DD-2, and ES-2.

Carbon Neutrality Plan Strategy 1
DD-3: Encourage Flagstaff residents and visitors to walk, bike, roll and take the bus.

Carbon Neutrality Plan Strategy 2
DD-2: Create inclusive networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient for people of all ages.

Carbon Neutrality Plan Strategy 3
ES-2: Proactively engage community members on an ongoing basis.

Regional Plan Support
Vision: In 2030, the Flagstaff region maintains a healthy system of open lands supporting the natural environment and our quality of life through stewardship by regional stakeholders.

- Goal LU.3. Continue to enhance the region's unique sense of place within the urban, suburban, and rural context (Policy LU.3.3).
- Goal CC.2. Preserve, restore, and rehabilitate heritage resources to better appreciate our culture.
- Goal ED.7. Continue to promote and enhance Flagstaff's unique sense of place as an economic driver.
- Policy OS.1.4. Use open space as opportunities for non-motorized connectivity, to interact with nature, and to enjoy the views and quiet.
- Policy OS.1.5. Integrate open space qualities into the built environment

Has There Been Previous Council Decision on This:

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

Options and Alternatives:

Option A – Adopt Resolution No. 2022-11 as submitted and authorize the grant agreement between the Arizona State Parks Board (BOARD) and The City of Flagstaff Parks and Recreation Open Space (PROJECT SPONSOR) for the Heritage Fund Environmental Education grant program, for grant funds in the amount of $50,000 with a city match of $5,500.This option allows staff to implement collaborative processes for creating and implementing outdoor environmental protection programs and recreational opportunities for the community, with a focused effort to provide resources to indigenous and historically underrepresented youth.

Option B – Do not adopt Resolution No. 2022-11 and do not authorize the grant agreement between the Arizona State Parks Board (BOARD) and The City of Flagstaff Parks and Recreation Open Space (PROJECT SPONSOR) for the Heritage Fund Environmental Education grant program, thus declining

grant funds in the amount of $50,000. This option does not allow staff to implement collaborative processes for creating and implementing outdoor environmental protection programs and recreational opportunities for the community.

Background/History:

Over the past 7 years, the Open Space program has relied on the AmeriCorps VISTA program to meet the capacity needs for the program. It is a great program, and it has helped us meet our baseline goals. This position provides 35 hours per week in support, amounting to over 1,800 volunteer hours each year. Over these seven years, the VISTA position has developed capacity in volunteer management, outdoor education, expanded partnerships, and developed fundraising strategies. The VISTA program is designed to build capacity for partners and cannot supplant staff. It is designed to provide support for capacity building for approximately three years and we have already exceeded the number of allowed years. This new funding opportunity will enable the Open Space program to continue baseline service levels.

In addition, this position:

- Supports all 7 PBB Priorities
- Upholds our Quadrant 2 level PBB programming
- Contributes to a number of Carbon Neutrality Plan strategies

Key Considerations:

The Management Plan for open space provides a framework for managing the natural, ecological, historical, and recreational resources to minimize conflict and degradation, and serves as a resource to guide decision-making processes for legally designated open space properties.

The Plan identifies 5 overarching management goals for the legally designated open space properties, which are listed below. This resolution and grant agreement directly support goals one, four, and five.

1. To maintain, restore, and enhance the natural ecosystem processes of these properties, including watershed health (including intermittent streams), forest structure, native plant communities, and rare habitat types.
2. To protect cultural resources present within these properties.
3. To maintain and protect diverse and healthy wildlife populations.
4. To provide opportunities for public use of these properties through passive recreational use, resource interpretation, education, scientific research, and other compatible activities in a manner that is consistent with the preservation of the conservation values of the site and the management goals.
5. To maintain and develop partnerships that facilitate resource management, stewardship, and conservation.

Expanded Financial Considerations:

There are several action items for educating the public and providing outdoor programming for the community that have associated costs. These items are funded by two primary sources. Some projects are included in the Open Space base budget of $39,500, which also includes maintenance needs. Additionally, some education projects utilize volunteer groups and in-kind contributions to complete at no cost to the city.

This funding would allow our program to promote and provide outdoor environmental protection programs and recreational opportunities for the community, with a focused effort to provide resources to indigenous and historically underrepresented youth. The goal will be to provide underrepresented groups with opportunities to learn about outdoor science fields through both classroom and outdoor programming.

The Outdoor Environmental Education Heritage Fund will cover 77% FTE (based on 35 hours per week) at a rate of $25/hour, for a total of $50,000 one-year. Staff is planning to apply for a second year.

Community Benefits and Considerations:

This funding will permit the continuation of our current level of service.

The Open Space program works hard to provide educational opportunities but does not have the capacity to meet all requests for outdoor educational programming.

- We offer the community great places to walk, bike, run, and participate in other outdoor activities,
- We are receiving the highest ever visitation. Trail counters installed at various locations at our three main regional preserves indicate that for FY 2021-22, we have already had **over 99,000 visitors**
- We provided science programs (e.g., forest ecology, plants, astronomy, and wildlife) for students and visitors at multiple open space properties and in classrooms. Programming reached approximately 775 students and 382 adults to date for this fiscal year
- In addition, the Open Space Stewards program has 30 core volunteers, we coordinated an additional 147 volunteers this year who provided trash clean-up, graffiti mitigation, input on projects, and trail work for our open space, contributing 1,061 hours of volunteer time to date for this fiscal year.

Community Involvement:

Staff collaborate with numerous educational partners. This application for the Heritage Fund was supported by:

- Arizona Watchable Wildlife Experience
- Friends of Flagstaff Future
- Flagstaff Festival of Science
- Killip 21st Century
- Killip STEM Lab
- Open Spaces Commission
- Open Space Stewards
- Picture Canyon Working Group
- STEM City
- Willow Bend Environmental Center

Attachments: Res. 2022-11
Grant Agreement
Location Map
Presentation

RESOLUTION NO. 2022-11

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING THE GRANT AGREEMENT FOR AN ARIZONA STATE PARKS HERITAGE FUND – ENVIRONMENTAL EDUCATION GRANT

RECITALS:

WHEREAS, the Congress of the United States has authorized the Heritage Fund as a federal-aid assistance program for trail projects, outdoor environmental education programs, as well as historic preservation projects through legislatively appropriated funds to help provide education and preservation program development, and interpretation (planning, development and implementation); and

WHEREAS, Arizona State Parks (Parks) is responsible for the administration of the Statewide appropriated Heritage Funds, setting up necessary rules and procedures governing application by eligible project sponsors under the program; and

WHEREAS, said adopted procedures established by Parks require the project sponsor to certify by resolution the approval of applications, signature authorization, the availability of local matching funds (if applicable), and authorization to sign a Project Agreement with the Parks prior to grant funding allocations from Parks.

ENACTMENTS:

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

SECTION #1. The City of Flagstaff hereby:

1. Approves the grant agreement for Heritage Fund Environmental Education Grant; and
2. Certifies that the agreement is consistent and compatible with all adopted plans and programs of the City of Flagstaff for providing equitable opportunities for community health and education; and
3. Agrees to comply with all appropriate procedures, guidelines, and requirements established by the Parks as a part of the grant acceptance process; and
4. Certifies that the City of Flagstaff will comply with all appropriate state and federal regulations, policies, guidelines, and requirements as they relate to the grant agreement; and
5. Certifies that it has appropriate matching funds for this grant; and
6. Appoints an agent of the City of Flagstaff to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, amendments, billing statements, and so on which may be necessary for the completion of the aforementioned project.

SECTION #2. The appropriate officials and officers of the City are hereby authorized and directed to take all action necessary or reasonably required to carry out, give effect to, and to consummate the transactions contemplated by the grant agreement.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 5th day of April, 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Arizona State Parks

1110 W Washington St Suite 100, Phoenix, AZ 85007

PROJECT SPONSOR AGREEMENT

This Agreement is entered into by and between the Arizona State Parks Board (BOARD) and The City of Flagstaff Parks and Recreation Open Space (PROJECT SPONSOR) and shall become effective on the date of signature by the authorized representative of Arizona State Parks.

PROJECT TITLE:	**PROJECT NUMBER:**
Open Space Education Grant	ASPT #: 632204
THIRD PARTY PARTICIPANT'S NAME:	**FY OF REVENUE:**
	2022

PROJECT PERIOD:

All expenses and match to be submitted prior to **10/1/23**

GRANT PROGRAM:	**GRANT AMOUNT:**	**%**	**PARTICIPANT MATCH:**	**%**	**TOTAL PROJECT COST:**
Heritage Fund Environmental Education	$50,000.00	90%	$5,500.00	10%	$55,500.00

APPROVED SCOPE OF WORK AND SPECIAL CONDITIONS: **Attachment A & B**

AUTHORITIES TO ENTER INTO THIS AGREEMENT:
(statute, resolution, minutes, etc.)

STATUTE: ARS § 41-501-504 RESOLUTION: 2022-

AWARDING OFFICIAL ON BEHALF OF THE ARIZONA STATE PARKS BOARD: _____ _____

Signature Date

Kevin Brock
Assistant Director

ACCEPTANCE OF ALL TERMS OF THIS AGREEMENT AND ITS ATTACHMENTS IS ACKNOWLEDGED BY THE PROJECT SPONSOR'S SIGNATURE BELOW.	**PARTICIPANT ATTORNEY APPROVAL AS TO FORM AND AS BEING WITHIN THE AUTHORITY OF THE PROJECT SPONSOR (optional)**
_____	_____
City of Flagstaff, Greg Clifton, City Manager	Attorney's Signature
_____	_____
Date	Date

The most recent version of the General Provisions based on the Project Sponsor and project type are attached and incorporated into this agreement.

Arizona State Parks
PROJECT SPONSOR AGREEMENT

Attachment A
Approved Project Scope and Special Conditions

PROJECT SPONSOR: The City of Flagstaff Parks and Recreation Open Space

PROJECT TITLE: Open Space Education Grant

PROJECT NUMBER: 652204

PROJECT DESCRIPTION: Funding will allow Flagstaff Open Space to promote and provide outdoor environmental protection programs and recreational opportunities for the community, especially for indigenous and historically underrepresented youth, through the continuation and expansion of the Indigenous Youth STEAM Academy (Science, Technology, Engineering, Art & Math). The goal of this program is to provide indigenous youth with the opportunity to learn about STEAM-related fields in conjunction with traditional culture, community, and environmental stewardship. Five objectives will be completed to promote and provide outdoor environmental protection programs.

1. Create outdoor lessons that help eliminate a high school level STEAM teaching gap by implementing a high school teaching program, building on existing elementary and middle school programming. Staff will research, prepare, and teach these lessons, and the lessons will be available to educators and the general public. Lessons will include an experiential trip to a Flagstaff open space to inspire interest in STEAM careers and environmental stewardship.

2. Continue existing elementary and middle school outdoor STEAM programming.

3. Provide outdoor community programs that bring understanding on environmental issues and support recreational opportunities.

4. Increase representation of underprivileged community members to encourage outside activity at Flagstaff's Open Spaces via social media, in-person contact, outdoor education events, volunteer recruitment materials, and partnering with community organizations.

5. Increase volunteer capacity to conduct community education, create a presence in open spaces, educate visitors, and complete environmental projects. We will recruit and train new volunteers--focusing on youth and underprivileged populations--provide regular support, offer continuing education, and coordinate volunteer events.

APPROVED PROJECT SCOPE:

Personnel.....	$34,973.00
Fringe Benefits.....	$15,027.00
Contractual.....	$ 5,500.00
	Total: $55,500.00

DESCRIPTION AND SOURCE(S) AND AMOUNTS FOR APPROVED MATCH

The City of Flagstaff Parks and Recreation Open Space will provide up to $5,500.00 in volunteer, staff and cash match for this project.

SPECIAL CONDITIONS:

A final completed resolution must be submitted prior to first reimbursement request.

Environmental Education projects are required to submit "deliverables" to Arizona State Parks in order to properly administer and close the projects. Deliverables are results of funds spent on certain scope items. Reports should include documentation of events, copies of recruitment materials (including links to social media outreach), and details on program attendance. Reports should also include details on lesson plans implemented in the program.

Detailed status quarterly reporting in ASPT's on-line system is required. Failure to provide these reports when requested will result in points being deducted in future funding requests and project funds being withdrawn. Failure to provide status reports when required my result in funds being withdrawn. (End of September, December, March and June)

See the General Provisions – Attachment B

OTHER CONDITIONS

Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

Grant support is limited to those seminars taking place in Arizona. Classes must include strong interrelationships component along with presentation of ecological principles. Program plans and materials must be designed to encourage replication by other organizations.

Allocated project funds can only be expended on the designated scope items.

Arizona State Parks and Trails
GRANT PROJECT SPONSOR AGREEMENT
Attachment B
General Conditions Applicable to Heritage Fund Environmental Education (EE) Project Grants

This Agreement applies to grants for EE projects awarded pursuant to the Heritage EE Fund Program.

PART I – DEFINITIONS

For purposes of this Agreement:

A. "Agreement" means the Grant Project Sponsor Agreement and its attachments.
B. "AORCC" is the Arizona Outdoor Recreation Coordinating Committee. Together, AORCC and the Board are "the Parties."
C. "BOARD" means the Arizona State Parks BOARD. Together, AORCC and the Board are "the Parties."
D. "Conversion" means the replacement of grant-funded facilities with new facilities that are of reasonably equivalent usefulness and location as the original.
E. "Eligible Costs" mean direct costs attributed to the project grant program, such as: 1) compensation of hired employees for the time and efforts devoted specifically to the execution of the grant; 2) cost of materials acquired, consumed, or expended specifically for the purposes of the grant; 3) equipment and other capital expenditures; 4) other items of expense incurred specifically to carry out the participant agreement; and 5) direct services furnished specifically for the grant program by other agencies. These costs are identified by the PROJECT SPONSOR in the Estimated Project Cost Sheet that is submitted with the Certified Application Form and application packet. The costs are then approved by the BOARD or by an amendment to this Project Agreement. Generally, eligible costs are identified in the applicable grant manual.
F. "Facilities" mean capital improvements.
G. "Fund" means the Federal Recreational Trails Program.
H. "Guidelines" mean the Administrative Guidelines for Awarded Grants and any other applicable program directives adopted by the BOARD.
I. "Ineligible Costs" are those costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objectives of the project.
J. "Match" includes cash, in-kind contributions, or donations, including volunteer time or materials contributed to the project with no intention of reimbursement.
K. "Obsolescence" means that an area or facility may be determined obsolete during the Term of Public Use if (1) reasonable maintenance and repairs are not sufficient to keep the facility or equipment operating; (2) changing needs dictate a change in the type of facilities or equipment provided; (3) operating practices dictate a change in the type of facilities or equipment required; or (4) the facility or equipment is destroyed by fire, natural disaster, or vandalism. Declaring the facility obsolete means that the PROJECT SPONSOR receives a waiver of the replacement requirements. No later than 90 days after a facility or equipment is taken out of public use, the PROJECT SPONSOR may request a waiver of repayment or replacement requirements in writing. A determination of obsolescence may be made at the sole discretion of the BOARD.
L. "PROJECT SPONSOR" means an eligible applicant that has been awarded a grant to develop a project or coordinate an education program.
M. "Project" means the sum of the activities identified with specific costs in the grant application packet that are eligible under the referenced grant application manual and have been approved by the BOARD.
N. "Project Period" means the period of time during which all approved work and related expenditures associated with development of the project are to be completed by the PROJECT SPONSOR.
O. "Repayment" means returning grant money to the Fund in the event the PROJECT SPONSOR expends advanced funds for ineligible costs or fails to expend the advanced funds for eligible project costs during the term of this grant.
P. "Sub-contract" means a contract between the PROJECT SPONSOR and another individual or entity whereby labor, work, services, or other responsibilities are supplied or performed in furtherance of the PROJECT SPONSOR'S responsibilities under this Agreement.

Q. "Term of Public Use" means the time required for public use. The Term of Public Use of the grant-assisted facilities must be at least:

1. Equipment (personal property) grant investment of more than $50,000 per item: 25 years
2. Facilities (real property): 25 years
3. Land: 99 years unless obsolescence applies. The Term of Public Use will begin on the date of completion identified in the Completion Certification Letter.

PART II – PERFORMANCE

A. ADMINISTRATION

1. Conditions - This Agreement is subject to the availability of grant funds and appropriate approvals, and is subject to the Constitution of the State of Arizona, the Arizona Revised Statutes, the Arizona Administrative Code, other acts of the Arizona Legislature, executive orders of the Governor, and the decisions and policies of the BOARD.
2. Incorporation of Application, Grant Manual, and Administrative Guidelines - The following documents are incorporated by reference into this agreement: The PROJECT SPONSOR'S grant application packet; the applicable grant manual; and the most recent revision of the Administrative Guidelines for Awarded Grants. In the event of a conflict or ambiguity, the terms of this Agreement and Attachments A and B to this Agreement must take precedence.
3. Use of Grant Funds - Awarded grant funds must be used solely for eligible purposes of the funding program, as defined by statute and as approved by the BOARD.
4. Transfer of Grant Funds - Awarded grant funds will be transferred to the PROJECT SPONSOR according to the terms of this Agreement. Staff will not process reimbursements requests for less than $1,000 unless it is the final request.
5. Grant Retention - Ten percent (10%) of the grant amount will be retained from reimbursement until Staff notifies the PROJECT SPONSOR in writing that the project is officially closed and completed.
6. Grant Accountability - Grant funds must be managed separately within the PROJECT SPONSOR'S accounting system that identifies the name and number of this project. The funds must only be expended as authorized under the terms of this Agreement.
7. Accomplishment of Project - The project must be accomplished according to the terms of this Agreement and applicable State laws.
8. Amendments - This Agreement may be amended in writing by the Parties of the Agreement upon written request of the PROJECT SPONSOR, good cause shown, and approval by the BOARD. Eligible amendments include adjustments to the project period, funding amount, or minor changes to the scope items.
9. Use of Project - Project accomplishments must be open or available to the public as specified in the Term of Public Use. If the grant funded capital improvements are not maintained and kept open for public use for the term specified in the Term of Public Use, the PROJECT SPONSOR must refund to the BOARD the awarded grant amount within six (6) months of the date the improvements are no longer maintained or kept open for public use, unless the BOARD agrees that obsolescence or conversion is appropriate.
10. Special Conditions - Special conditions to this agreement are binding upon and inure to the benefit of the successors and assigns of each of the Parties to this agreement. Breach of any condition will be enforceable by any remedies available under applicable Federal or State law.
11. Conversion - No land or facilities acquired or developed with State assistance will, without the approval of the BOARD, be converted to other than public use during the Term of Public Use. The BOARD will approve such conversion only if it finds the replacement property to be in accord with the current grant statute. Conversions will require the substitution of other properties of at least equal fair market value and of reasonably equivalent usefulness and location, and concurrence of the landowner. The replacement property will then become subject to this agreement. In lieu of conversion, the PROJECT SPONSOR may apply for a declaration of obsolescence. In the event the BOARD provides grant assistance for the acquisition and/or development of real property subject to reversionary interests, with full knowledge of those reversionary interests and with written notice of those reversionary interests, conversion of said

property to other than public uses as a result of such reversionary uses being exercised may be approved. The PROJECT SPONSOR must notify the BOARD of the conversion as soon as possible and seek approval of replacement property in accord with the conditions set forth in this agreement. The PROJECT SPONSOR must accomplish such replacement within a reasonable time, acceptable to the BOARD, after the conversion of the property occurs. This paragraph also applies to (1) leased properties acquired and/or developed with Fund assistance, where such lease is terminated prior to its full term pursuant to lease provisions known and agreed to by the BOARD; and (2) properties subject to other outstanding rights and interests known to and agreed to by the BOARD.

B. RELATIONSHIP OF PROJECT COSTS TO THE PROJECT PERIOD

Except for pre-agreement costs approved by the BOARD, only those costs associated with approved project work incurred during the project period will be eligible for reimbursement according to the terms of this agreement. Combined pre-agreement and design and engineering costs must not exceed 10% of the approved grant award.

C. ACQUISITION

Values of property purchased with grant assistance must be appraised by an appraiser with active State certifications according to the Uniform Standards of Professional Appraisal Practice. This appraisal must be prepared within one year prior to the acquisition. Grant participation must be according to the grant award amount, the approved market value, or the purchase price, whichever is less.

D. CARE AND DISPOSITION OF EQUIPMENT

Equipment purchased with grant funds to develop a project may remain in the possession of the PROJECT SPONSOR for as long as the equipment is being used for eligible project work, at the sole discretion of State Parks. State Parks reserves the right to claim equipment purchased under this Agreement when it is no longer being used for the purpose for which it was purchased.

E. SUB-CONTRACTS

1. Sub-contracts awarded to accomplish the project must incorporate by reference, in each sub-contract, the provisions of this Agreement. The PROJECT SPONSOR bears full responsibility for acceptable performance under each sub-contract.

2. The PROJECT SPONSOR must pay when due any claim of a sub-contractor, employee, independent contractor, or any other employed individual performing the approved work for services pursuant to this Agreement.

3. The PROJECT SPONSOR indemnifies and holds harmless the State of Arizona, its employees, and the BOARD and its members from any claim(s) for services pursuant to this Agreement, or damages relating thereto, of a sub-contractor or other employed individual performing the approved work.

4. Any sub-contract for employment by the PROJECT SPONSOR must be in writing and contain a provision whereby a person so employed or with whom a sub-contract has been entered acknowledges that the State of Arizona and the BOARD are not be liable for any costs, claims, damages, reimbursement, or payment of any kind relating to such sub-contract.

F. PROJECT REPORTING, REVIEWS, AND ON-SITE INSPECTIONS

1. The PROJECT SPONSOR must submit a project status report not less than quarterly. The status report will include, at a minimum, the following: (a) progress toward completing the approved scope of work; and (b) any problems encountered and solutions to problems regarding completion of the project. Failure to submit the reports will result in delays in grant reimbursement or advance processing. The PROJECT SPONSOR must consult with the BOARD, as needed, to review progress. The BOARD reserves the right to review the progress of the project and to conduct on-site inspections, as applicable and as needed, at any reasonable time during the project period or required Term of Public Use in order to assure compliance with the terms of this agreement.

2. The PROJECT SPONSOR must certify compliance with the Project Agreement every five years, until the end of the Term of Public Use, on a form to be provided by the BOARD. In addition, on-site inspections will be conducted periodically at the discretion of the BOARD. The following will be taken into consideration during the inspection of properties that have been acquired or developed with grant assistance: retention and use; appearance, and maintenance.

3. The PROJECT SPONSOR must provide the Board with written consent of the landowner to conduct on-site inspections; failure to do so is a failure to keep or maintain the property for public use.

G. EARNED INTEREST ON ADVANCED FUNDS

Interest generated from funds advanced to the PROJECT SPONSOR during the project period must be used to further the purposes of the specified project. Funds advanced, but not spent to complete the project, must be returned to the BOARD at the completion of the project.

H. PRODUCT OR PUBLISHABLE MATTER OWNERSHIP

With written permission from the BOARD or Arizona State Parks, the PROJECT SPONSOR may use products or publishable matter produced with grant assistance the BOARD will have nonexclusive license to use and reproduce, without payment, such materials. The PROJECT SPONSOR must receive written permission from State Parks prior to utilizing publishable material for commercial or public purposes. This paragraph is not applicable to architectural or engineering plans produced with grant assistance.

I. FUND SOURCE RECOGNITION

The PROJECT SPONSOR must permanently and publicly acknowledge the grant program(s) that assisted project accomplishments (including, but not limited to: final documents; audio-visual recordings; photographs; plans; drawings; publications; advertisements; and project plaques). At a minimum, this acknowledgment must include the following: "This program was financed in part (or in full) by a grant from the Federal Recreational Trails Program administered by the Arizona State Parks."

J. PROJECT COST VERIFICATION

The PROJECT SPONSOR must submit project expenditure documents to the BOARD or State Parks for verification or audit purposes, upon request.

K. TRANSFER OF CONTRACTUAL RESPONSIBILITY

The PROJECT SPONSOR may transfer responsibilities under the terms of this agreement to another eligible participant, provided that approval has been granted by the BOARD in writing prior to the transfer.

PART III – COMPLIANCE

A. ANTI-TRUST

Vendor and purchaser recognize that, in actual economic practice, overcharges from anti-trust violations are borne by purchaser. Therefore, the PROJECT SPONSOR hereby assigns to BOARD any and all claims for such overcharges.

B. ARBITRATION

To the extent required pursuant to A.R.S. § 12-1518 and any successor statute(s), the Parties agree to use arbitration, after exhausting all applicable administrative remedies, to resolve disputes arising out of this Agreement. Venue shall be in Maricopa County, Arizona.

C. INDEMNIFICATIONS AND CLAIMS AGAINST THE STATE

The PROJECT SPONSOR indemnifies, saves and holds harmless the BOARD, the State of Arizona, and Arizona State Parks, its agents, departments, officers, and employees from any and all claims, losses, damages, liabilities, expenses, costs, and charges incident to or resulting in any way from any injuries, death, or damage to any person, or any damage to any property caused by or resulting from the issuance or performance of services rendered as a part of this Agreement, except those claims, losses, damages, liabilities, expenses, costs, and charges arising from the sole negligence of the BOARD, the AORCC, or the State of Arizona, its agents, departments, officers, or employees.

D. NON-DISCRIMINATION -- EMPLOYMENT

The PROJECT SPONSOR agrees to comply with Executive Order Number 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules, and regulation, including the Americans with Disabilities Act. The PROJECT SPONSOR shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

E. ARIZONANS WITH DISABILITIES ACT OF 1992 AND AMERICANS WITH DISABILITIES ACT

The PROJECT SPONSOR shall comply with all applicable provisions of the Arizonans with Disabilities Act of 1992, A.R.S. §41-1492, et. seq. and the Americans with Disabilities Act, (Public Law 101-336, 42 U.S.C. 12101-12213 and 47 U.S.C. §225 and 611), and applicable state rules and federal regulations under the Acts.

F. RECORDS RETENTION AND AUDITS

1. Complete financial records and all other documents pertinent to this Agreement must be retained by the PROJECT SPONSOR and made available to the Staff, if requested, for review and/or audit purposes for a period of five (5) years after this Agreement expires.

2. The PROJECT SPONSOR may substitute electronic copies in place of original records, but only after project costs have been verified.

G. STATE CONTRACT CANCELLATION

1. The State or its political subdivisions or any department or agency of either may cancel this Agreement without penalty or further obligation, pursuant to A.R.S. § 38-511.

2. Every payment obligation of the BOARD under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated or appropriated for the continuance of this Agreement, this Agreement may be terminated by the BOARD at the end of the period for which the funds are available. No liability shall accrue to the BOARD or the State of Arizona in the event this provision is exercised, and the BOARD shall not be obligated or liable for any future payments or for any damages resulting as a result of termination under this paragraph.

H. REMEDIES

1. The BOARD may temporarily suspend grant assistance obligated to the PROJECT SPONSOR pending required corrective action by the PROJECT SPONSOR or pending a decision to terminate the grant by the BOARD.

2. The PROJECT SPONSOR may unilaterally terminate this Agreement at any time before the first payment is made. After the initial payment, this Agreement may be terminated, modified, or amended by the PROJECT SPONSOR only by written mutual agreement of the Parties.

3. The BOARD may terminate this Agreement in whole or in part at any time before the date of completion if it determines that the PROJECT SPONSOR has failed to comply with the terms or conditions of the grant. The BOARD will promptly notify the PROJECT SPONSOR in writing of the determination and the reasons for the termination, including the effective date. All payments made to the PROJECT SPONSOR must be returned to the BOARD if this Agreement is terminated for cause.

4. The BOARD or PROJECT SPONSOR may terminate this Agreement in whole or in part at any time before the date of completion when both Parties agree that the continuation of the development project would not produce beneficial results commensurate with the further expenditure of funds. The two Parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The PROJECT SPONSOR must not incur new obligations for the terminated portion after the effective date and must cancel as many outstanding obligations as possible. The BOARD may allow full credit to the PROJECT SPONSOR for the grant share of properly incurred obligations that cannot otherwise be cancelled before the effective termination date.

5. The BOARD may require specific performance of the terms of this Agreement or take legal steps necessary to recover the funds granted if the PROJECT SPONSOR fails to comply with the terms of the grant or breaches any condition or special condition of this Agreement.

6. The BOARD may request and the PROJECT SPONSOR must deliver repayment of funds advanced under this agreement in conjunction with the remedies in this section.

7. The remedies expressed in this Agreement do not limit the rights of the BOARD. This Agreement does not in any way abridge, defer, or limit the BOARD'S right to any right or remedy under law or equity that might otherwise be available to the BOARD.

I. CULTURAL RESOURCES

The PROJECT SPONSOR must meet the requirements of the State Historic Preservation Act (A.R.S. §41-861 to 41-864) before project initiation.

J. COMPLIANCE WITH FEDERAL IMMIGRATION LAWS AND REGULATIONS RELATING TO THE HIRING OF UNAUTHORIZED WORKERS.

The PROJECT SPONSOR must meet the compliance requirements for A.R.S. § 41-4401, Government Procurement: E-Verify Requirement.

1. The PROJECT SPONSOR and anyone contracted by the PROJECT SPONSOR warrant compliance with all Federal immigration laws and regulations relating to employees and warrants compliance with Section A.R.S. § 23-214, Subsection A.

2. A breach of a warranty regarding compliance with immigration laws and regulations is a material breach of the contract and the PROJECT SPONSOR may be subject to penalties up to and including termination of the contract.

3. Failure to comply with a State audit process to randomly verify the employment records of PROJECT SPONSOR and sub-contractors is a material breach of the contract and the PROJECT SPONSOR may be subject to penalties up to and including termination of the contract.

4. The State Agency retains the legal right to inspect the papers of any employee who works on the contract to ensure that the PROJECT SPONSOR or subcontractor is complying with the warranty under paragraph J-1.

K. DISCLOSURE REQUIREMENTS

PROJECT SPONSOR must comply with the terms of A.R.S. § 35-181.03 or its successor statute(s) regarding audited financial statements provided to the BOARD.

L. INSURANCE REQUIREMENTS

PROJECT SPONSOR and sub-contractors must procure and maintain occurrence-based insurance policies that cover claims for injury or death to persons or damage to property that may arise from or in connection with the performance of the work hereunder by the PROJECT SPONSOR, its agents, representatives, employees or sub-contractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the PROJECT SPONSOR from liabilities that might arise out of the performance of the work under this contract by the PROJECT SPONSOR, its agents, representatives, employees or sub-contractors, and PROJECT SPONSOR is free to purchase additional insurance.

Minimum Scope and Limits of Insurance: PROJECT SPONSOR shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

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

- General Aggregate $2,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Blanket Contractual Liability – Written and Oral $1,000,000
- Fire Legal Liability $50,000
- Each Occurrence $1,000,000

a. The policy must be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the PROJECT SPONSOR."

b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the PROJECT SPONSOR.

2. Business Automobile Liability

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

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

a. The policy must be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be

named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the PROJECT SPONSOR, involving automobiles owned, leased, hired or borrowed by the PROJECT SPONSOR."
b. Policy must contain a waiver of subrogation against the State of Arizona, as departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the PROJECT SPONSOR.

3. Worker's Compensation and Employers' Liability

• Workers' Compensation	Statutory
Employers' Liability	
• Each Accident	$ 500,000
• Disease – Each Employee	$ 500,000
• Disease – Policy Limit	$1,000,000

a. Policy must contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the PROJECT SPONSOR.
b. This requirement does not apply to: Separately, EACH PROJECT SPONSOR or sub-contractor exempt under A.R.S. 23-901, and when such PROJECT SPONSOR or sub-contractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

Additional Insurance Requirements: The policies must include, or be endorsed to include, the following provisions:
1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the PROJECT SPONSOR, even if those limits of liability are in excess of those required by this Contract.
2. The PROJECT SPONSOR'S insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the PROJECT SPONSOR shall not be limited to the liability assumed under the indemnification provisions of this Contract.

Notice of Cancellation: With the exception of (10) day notice of cancellation for nonpayment of premium, any changes material to compliance with this contract in the insurance policies above require thirty (30) days' written notice to the State of Arizona. Such notice must be sent directly to Arizona State Park Board, State Procurement Office located at 1300 W. Washington, Phoenix, AZ 85007 via certified mail, return receipt requested. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the PROJECT SPONSOR from potential insurer insolvency.

Verification of Coverage: PROJECT SPONSOR must furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project and any claims arising therefrom. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract. All certificates required by this Contract must be sent directly to Arizona State Park Board, State Procurement Office located at 1300 W. Washington, Phoenix, AZ 85007. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.

Sub-contractors: PROJECT SPONSOR's certificate(s) must include all subcontractors as insureds under its policies or PROJECT SPONSOR shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for sub-contractors shall be subject to the minimum requirements identified above.

Approval: Any modification or variation from the insurance requirements in this Contract must be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.

Acceptance of all terms and conditions of this Agreement and its attachments is acknowledged by the signature on the cover sheet of this Agreement by an authorized agent of the PROJECT SPONSOR.

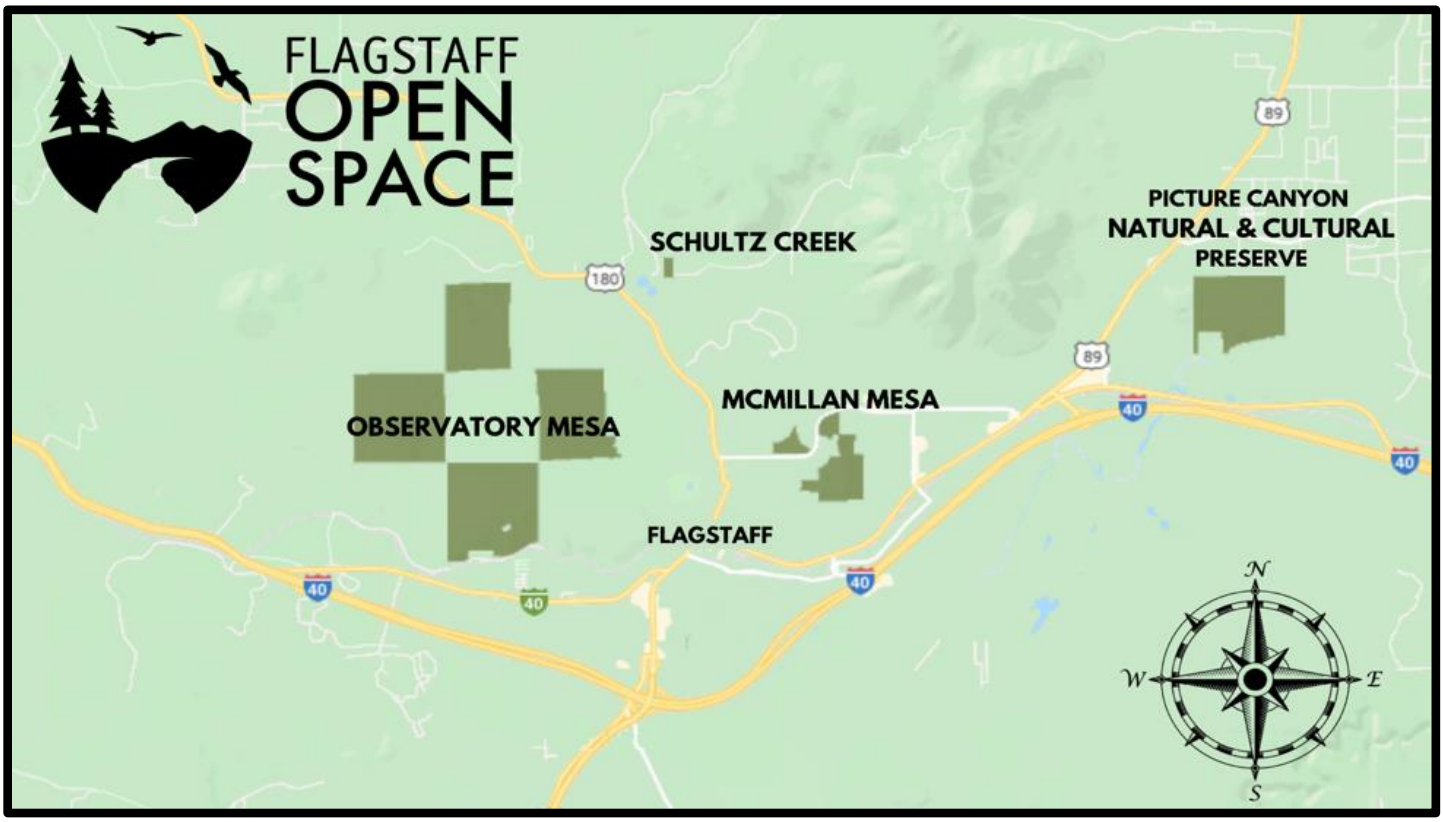
Signature:

Email: greg.clifton@flagstaffaz.gov

Signature:

Email: kbrock@azstateparks.gov

City of Flagstaff Open Space Locations



Open Space Grant Resolution and Agreement Consideration

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Robert Wallace, Open Space Specialist

Open Space Background – Who, What, How

Who are we?

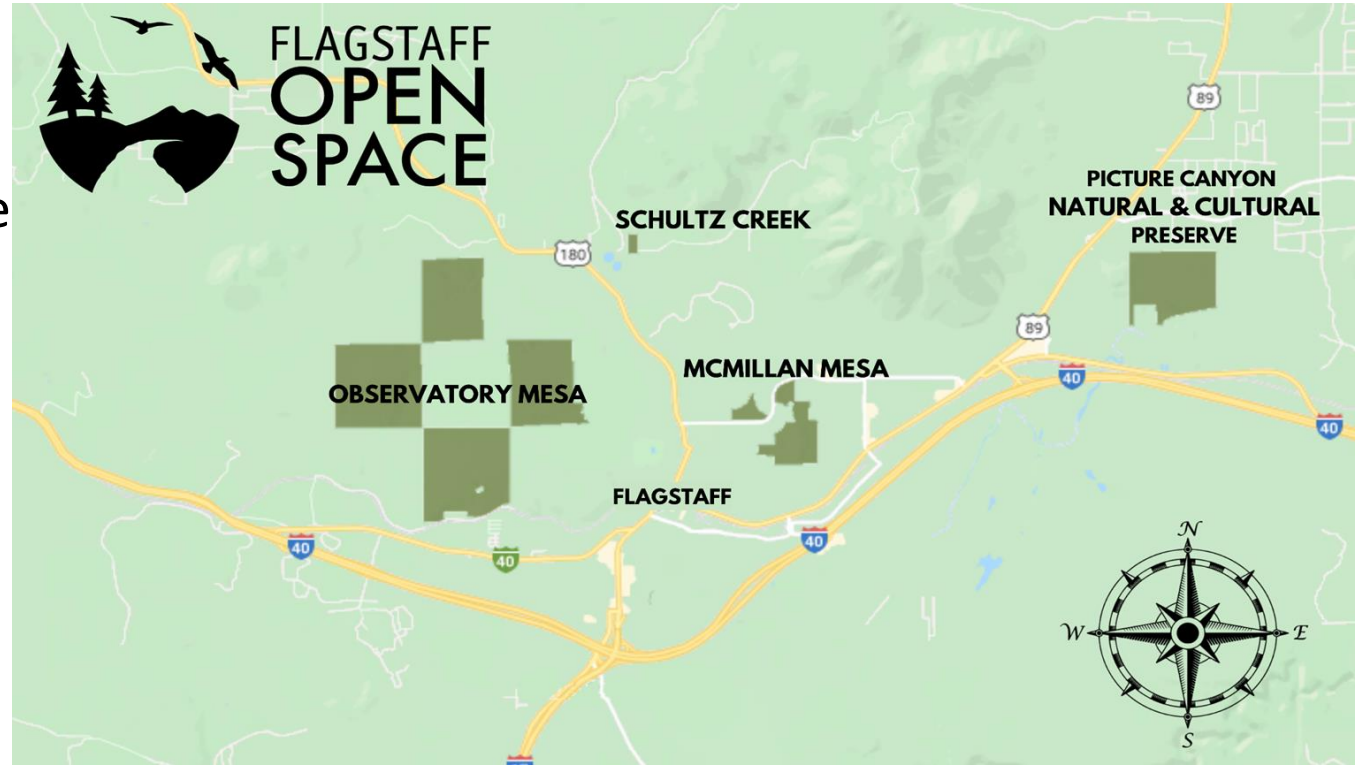
- One full-time employee.
- One full-time volunteer (VISTA)

What does Open Space maintain

- Manage 3,000 acres of community accessible Open Space
- Offer educational programming.
  - 775 students and 382 adults. Total 1,157

How are we moving forward

- Requested $50,000 for staffing support to conduct outdoor and environmental protection programs



What Will This Grant Achieve

- Outdoor Environmental Education Heritage Fund
  - Contribute $50,000 for a part-time position (based on 35 hours per week) at a rate of $25/hour, for one year
  - Complete Objectives:
    - Create outdoor lessons
    - Provide outdoor community programs
    - Increase representation of underprivileged community members
    - Enable continued volunteer management

What is the City agreeing to?

- A completed resolution
- $5,500 match, Open Space base budget allocation. Total project cost $55,500
- Detailed status quarterly reporting
- Required to submit “deliverables,” documentation of events, recruitment materials, program attendance, lesson plans, etc.

How Grant Acceptance Meets City Goals

Maintains Service Level

Section goals:

- Volunteer management
- Educational and recreational activities
- Facilitation of partnerships
- Serve underprivileged populations
- Promote responsible tourism
- Secure funding through grants

Community goals:

- Supports all 7 PBB Priorities
- Upholds Q-2 programming
- CNP 1 - Reduce greenhouse gas emissions through encouragement campaigns
- DD-3: Provide capacity to continue encouragement programming and trail/open space awareness

Options

Option A – Adopt Resolution No. 2022-XX as submitted and authorize the grant agreement for grant funds in the amount of $50,000 with a city match of $5,500.

Option B – Do not adopt Resolution No. 2022-XX and do not authorize the grant agreement, thus declining grant funds in the amount of $50,000.

Questions?

12. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Martin Ince, Multi-Modal Planner
Co-Submitter:	Stacey Brechler-Knaggs
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Adoption of Resolution No 2022-13: Approval of an Intergovernmental Agreement between Mountain Line and the City of Flagstaff for project management of the First Mile Last Mile grant

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-13 by title only
2) City Clerk reads Resolution No. 2022-13 by title only (if approved above)
3) Adopt Resolution No.2022-13

Executive Summary:

This resolution will approve an intergovernmental agreement (IGA) between the City of Flagstaff and Mountain Line. The IGA establishes project management and grant oversight roles and responsibilities for each agency – including design, procurement, and construction management – for pedestrian and bicycle projects that will be funded with the First Mile Last Mile grant.

Financial Impact:

The grant requires a local match of 20 percent, which calculates to $1,384,019. The local match will be taken from the pedestrian and bicycle component of the transportation sales tax (Prop 419). Pedestrian and bicycle projects that will be funded with the grant were already planned as part of the draft ATMP and programmed with transportation sales tax funding. As a result, the grant leverages local transportation sales tax funds and allows the City to build more of the pedestrian and bicycle infrastructure identified in the ATMP.

Policy Impact:

There are no policy impacts.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Sustainable,Innovative Infrastructure
Provide effective management of and infrastructure for all modes of transportation

Livable Community
Provide amenities & activities that support a healthy lifestyle

Environmental Stewardship
Implement sustainable building practices, enhance waste diversion programs, alternative energy programs & multi-modal transportation options

Carbon Neutrality Plan

Decreased Dependence on Cars

DD-2 Create inclusive networks for walking and biking that are continuous, attractive, safe, comprehensive, and convenient for people of all ages.

DD-3 Encourage Flagstaff residents and visitors to walk, bike, roll and take the bus.

Regional Plan

Goal T.5. Increase the availability and use of pedestrian infrastructure, including FUTS, as a critical element of a safe and livable community.

Policy T.5.4. Design streets with continuous pedestrian infrastructure of sufficient width to provide safe, accessible use and opportunities for shelter.

Goal T.6. Provide for bicycling as a safe and efficient means of transportation and recreation.

Policy T.6.2. Establish and maintain a comprehensive, consistent, and highly connected system of bikeways and FUTS trails.

Goal T.7. Provide a high-quality, safe, convenient, accessible public transportation system, where feasible, to serve as an attractive alternative to single-occupant vehicles.

Policy T.7.5. Incorporate adopted plans and policies for non-motorized and public transportation in the permitting process for all development or land use proposals, including provisions for efficient access and mobility, and convenient links between pedestrian, bicycle, and transit facilities.

Has There Been Previous Council Decision on This:
No

Key Considerations:
In 2020, Mountain Line was awarded First Mile Last Mile funding through Sections 5307-5339, a Federal Transit Administration (FTA) grant program that is administered in Arizona by the Arizona Department of Transportation. This is a competitive grant program for transit capital projects; eligible projects include pedestrian facilities that are within one-half mile of transit stops, and bicycle facilities that are within three miles of transit stops.

The grant award is for $5,536,075. A local match of 20 percent is required ($1,384,019). The total amount available (grant plus local match) is $6,920,094.

The first mile last mile concept recognizes that most transit trips begin with a walking or bicycle trip. Closing gaps in pedestrian and bicycle networks supports transit by enlarging the catchment area for transit, making transit available to more of the community, and building more robust walking and biking networks.

City staff have worked with Mountain Line to identify pedestrian and bicycle projects for the grant. First Mile Last Mile projects are drawn from the list of projects developed as part of planning and programming for Prop 419 and the draft Active Transportation Master Plan (ATMP). Projects generally include missing sidewalk segments, enhanced crossings on busy streets, and bikeway enhancements. All of the projects are within existing right-of-way and in proximity to the transit system.

The First Mile Last Mile grant advances implementation of the ATMP and helps the City achieve its Carbon Neutrality goals.

Attachments: Res. 2022-13
IGA

RESOLUTION NO. 2022-13

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN MOUNTAIN LINE AND THE CITY OF FLAGSTAFF FOR PROJECT MANAGEMENT OF THE FIRST MILE LAST MILE GRANT

RECITALS:

WHEREAS, Mountain Line and City of Flagstaff desire to enter into an intergovernmental agreement to describe roles and responsibilities for project management of the First Mile Last Mile grant; and

WHEREAS, the First Mile Last Mile grant represents $5,536,075 in federal funding awarded to Mountain Line through Sections 5307-5339, a Federal Transit Administration grant program administered by the Arizona Department of Transportation; and

WHEREAS, the City of Flagstaff and Mountain Line intend to use the grant funds to construct a variety of pedestrian and bicycle projects that will help complete walking and biking networks and improve access to transit; and

WHEREAS, pedestrian and bicycle projects funded with the First Mile Last Mile grant will be cooperatively managed by the City of Flagstaff and Mountain Line; and

WHEREAS, the City Council has read and considered the staff summary report and proposed IGA attached thereto, and finds that it is in the best interests of the City to enter into the IGA.

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 Mountain Line and the City of Flagstaff, Arizona, attached hereto as Exhibit A.

SECTION 2. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 5th day of April, 2022.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
IGA

After recording, return to:

City Clerk
Flagstaff City Hall
211 W. Aspen Avenue
Flagstaff, AZ 86001

INTERGOVERNMENTAL AGREEMENT
for
FIRST MILE LAST MILE
by and between
City of Flagstaff
and
Mountain Line

This Intergovernmental Agreement (hereafter "Agreement") is entered into this _____ day of _____ 2021 by and between the City of Flagstaff, an Arizona municipal corporation, with offices at 211 West Aspen Street, Flagstaff, Arizona 86001 (hereafter the "City"), and Northern Arizona Intergovernmental Arizona Public Transit Authority, an intergovernmental public transportation authority, with offices at 3773 North Kaspar Drive, Flagstaff, Arizona 86004, (hereafter "Mountain Line"). City and Mountain Line may be referred to as a Party or, collectively, as the Parties in this Agreement.

RECITALS

WHEREAS:

A. Mountain Line is an intergovernmental public transportation authority, created pursuant to state law and the intergovernmental agreement dated March 14, 2006, amended and restated effective July 1, 2013, and amended effective July 1, 2020, referred to collectively herein as the "Amended Master IGA", to which the City of Flagstaff is a member; and

B. Pursuant to the terms of state law and the Amended Master IGA, Mountain Line is charged with planning and operating a public transportation system in the area that incorporates the City of Flagstaff and the Northern Arizona University campus; and

C. On or about September 7, 2006, Mountain Line and the City of Flagstaff entered into an intergovernmental agreement (the "2006 City IGA") for the purpose of providing fixed route transit service and paratransit service in a manner that conforms to Mountain Line's 5-year transit plan and all local, state, and federal laws and regulations; an amendment to the 2006 City IGA on or about July 1, 2016, and

D. Mountain Line has secured Federal Transit Administration (hereafter "FTA") Section 5307/5339 grant funding for up to 80% of the design and construction of the bicycle and pedestrian infrastructure connections near transit stops commonly known as First Mile Last Mile (hereafter "Project"), see attachment A: Grant Agreement for more information; and

E. The City and Mountain Line both benefit from the use of these funds in service of the Project; and

F. City possesses and desires to coordinate with Mountain Line for the purposes of completing

the Project utilizing the FTA Section 5307/5339 funding; and

G. City and Mountain Line now wish to enter into this Agreement to set out the roles and responsibilities of the Parties as related to the funding, design, construction, and completion of the Project; and

H. The Parties are authorized to enter into this Agreement by the provisions of Arizona Revised Statutes ("A.R.S.") Title 2, Chapter 26, the Amended Master IGA, and by A.R.S. § 11-951 et seq.

NOW, THEREFORE, in consideration of the mutual covenants of the Parties contained herein and other consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Purpose and Scope.** The Purpose of this Agreement is to set out the roles and responsibilities of the Parties as related to FTA 5307/5339 grant funds Mountain Line received for the design and construction of the Project. Implementation of the Project shall result in capital assets that shall be owned and maintained by the City per the City's Asset Management Plan. All infrastructure improvements part of the Project shall be in the public right of way.

2. **Funding.** The FTA Section 5307/5339 Grant funds used for the design and construction of the Project are budgeted as follows:

Mountain Line (FTA Section 5307/5339 Grant Funds)				**City (Local Match)**
	Pedestrian	Bicycle	Phase Subtotal	
Design	$697,545	$298,948	$996,493	
Construction	$3,177,707	$1,361,874	$4,539,581	
Type Subtotal	$3,875,252	$1,660,822		
Project Total			$5,536,074 (80% of Project)	$1,384,019 (20% of Project)

These budgeted figures may be subject to change. Any budget changes needed for the completion of the Project shall be communicated between Parties. In the event Mountain Line secures additional funding for the Project, an amendment to this Agreement documenting the details shall be signed by both Parties.

3. **Term.** This Agreement shall be in effect from July 1, 2021 to December 31, 2025 or until completion of the Project and closure of the FTA Section 5307/5339 Grant, whichever date occurs first. In the event that grant funds are not spent and the grant is not closed by December 31, 2025, this Agreement shall automatically extend for one (1) year terms until such time that all grant funds have been spent and the grant is closed.

4. **Project Roles and Responsibilities.**

4.1. Mountain Line Roles and Responsibilities

4.1.1. Mountain Line shall provide grant administration in accordance with grant award agreement.

4.1.2. Mountain Line shall designate a point of contact who will coordinate all aspects of the project with a point of contact designated by the City of Flagstaff for the design and construction of the Project.

4.1.3. Mountain Line shall be responsible for procurements in compliance with federal requirements following a mutually agreed upon procurement plan.

4.1.4. Mountain Line shall contract for services including design professional (hereafter "DP") and other third-party vendors required to complete design and construction of the bike and pedestrian infrastructure. Mountain Line shall be responsible for procurement for both the design and construction phases with coordination with City on scoping and evaluating responses. Mountain Line shall provide contract oversight and Mountain Line will include all federal terms, requirements, and certifications in contracts in compliance with federal, state, or local requirements.

4.1.5. Mountain Line point of contact shall meet quarterly with City point of contact to track progress on grant milestones and grant budget. Mountain Line shall submit quarterly reports related to those topics to FTA at the end of January, April, July, and October and meetings shall be timely to accommodate on-time reporting.

4.1.6. Mountain Line shall be responsible for monitoring and providing oversite to ensure that pedestrian and bicycle infrastructure meet FTA requirements for the National Environmental Policy Act (hereafter "NEPA"). Any changes to the design of infrastructure improvements shall be coordinated between the City and Mountain Line to verify it is within right of way and complies with NEPA regulations.

4.1.7. Mountain Line shall collect from the City construction administration documents for quality assurance, including records related to federal compliance for Davis Bacon payroll, Buy America, and Disadvantage Business Enterprises (hereafter "DBE").

4.1.8. Mountain Line shall be responsible for overall contract management, administration, project controls, and coordination.

4.1.9. Mountain Line shall provide monthly expense reports to City to communicate expenditures and balance details pertaining to the FTA Section 5307/5339 funds.

4.1.10. Mountain Line is responsible for payment of all invoices received within 30 days of receipt. Mountain Line will pay 100% of invoice totals.

4.1.11. Mountain Line is responsible for submitting reimbursement request to FTA for 80% of total project cost, no later than the 10 days after receipt of all invoices for the billing period.

4.1.12. Mountain Line will bill the City for the match as required for total project as reported to FTA no later than 30 days after receipt of all invoices for the billing period.

4.1.13. Mountain Line shall bill to the grant Mountain Line staff's actual time spent on the Project, not to exceed 5% of each individual contract amount for design and construction.

4.2. City Roles and Responsibilities

4.2.1. City shall provide all scoping, scoring criteria, and scoring committee information to Mountain Line for all procurements and shall recommend procurements to conduct.

4.2.2. The City shall review and recommend approval of all change orders per the process detailed in the City of Flagstaff Procurement Code Manual.

4.2.3. The City shall review and recommend to Mountain Line approval of invoicing.

4.2.4. City shall be responsible for collecting, reviewing, and providing a recommendation to Mountain Line on all construction administration procedures, including tasks related to federal compliance for Davis Bacon payroll, DBE, and Buy America. City shall provide to Mountain Line for federal compliance.

4.2.5. City shall be responsible for day-to-day project management of design and construction.

4.2.6. The City will advance $3 million 30 days after invoicing from Mountain Line, from the Transit Tax fund, to provide cash flow for timely payment of invoices to all vendors engaged in the performance of this project. Additional cash management advances can be requested as necessary due to invoice frequency and cost as phases of the project change or escalate. Any additional funds will come from Transit Tax fund. Mountain Line will submit a request to increase the cash balance to the City Management Services Director for consideration. Upon determination by the Management Services Director, the City will advance additional funds, not to exceed $6 million in the aggregate. Mountain Line may return cash advances during the project when the amount exceed the need to maintain. The full advance will be refunded to the City within 30 days receipt of final payment from the federal agency.

4.2.7. The City will record the advance as a receivable in the Transit Tax fund and Mountain Line will record the advance as a payable in the Mountain Line financials.

4.2.8. For the federal grant match, City is responsible for paying invoices for actual payments due within 30 days of receipt of invoice. Payments for this project will be made from non-Transit Tax funding.

4.2.9. City shall develop and provide oversite of the Project budget and provide recommendations to the Mountain Line point of contact.

4.2.10. In the event the Project exceeds federal budget, the City shall be responsible to cover 100% of the overruns and change orders if they exceed federal budget.

4.3. Shared Roles and Responsibilities

4.3.1. Each Party shall have a representative to be the main points of contact and shall be responsible for coordinating all Project specific information with their individual teams.

4.3.2. City and Mountain Line, along with DP, construction firm, and other vendors as applicable shall comply with NEPA regulations in accordance with the Federal Transit Administration grant requirements for the Project. Partners shall mutually agree upon projects to ensure compliance with NEPA.

4.3.3. Mountain Line and the City shall meet monthly for invoicing, reviewing project progress, compiling Davis Bacon payrolls and DBE requirements.

4.3.4. Both Parties shall be responsible for tracking Project budget to ensure Project does not exceed federal funding.

4.3.5. Both Parties will coordinate if an asset needs to be modified or removed to ensure all federal grant requirements are met and to reduce the need to reimburse FTA if an asset has not met useful life.

5. Indemnification. Each Party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other Parties (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses, including reasonable attorney's fees, (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person, including death, or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

6. ADA. Each Party shall comply with applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 United States Code. 12101-12213) and all applicable federal regulations under the Act, including 28 Code of Federal Regulation Parts 35 and 36.

7. Non-Discrimination. 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.

8. Compliance with Laws. Each Party shall comply with all federal and state laws, rules, regulations, standards and Executive Orders, as applicable, without limitation to those designated within this Agreement. Any changes in the governing laws, rules and regulations during the terms of this Compact shall apply but do not require an amendment.

9. **Modification.** This Agreement may be modified or amended only by written agreement signed by or for both Parties, and any such modification or amendment shall become effective on the date so specified.

10. **Agents, Employees, And Contractors.** Agents, employees and contractors hired by a Party to provide services under this Agreement shall be and remain the agents, employees, and contractors of the hiring Party solely, and shall not be considered agents, employees, or contractors of the other Party.

11. **Workers' Compensation.** Each Party herein shall comply with the provisions of A.R.S §23-1022(E) by posting the public notice required. As provided for in A.R.S. §23-1022(D), an employee of a public agency who works under the Jurisdiction or control of or within the Jurisdictional boundaries of another public agency pursuant to a specific intergovernmental agreement or contract entered into between the public agencies is deemed to be an employee of both public agencies. However, the primary employer is solely liable for the payment of Workers' Compensation benefits for the purposes of this Agreement. As such, each Party shall maintain Workers' Compensation insurance coverage on all of its own employees providing services pursuant to this Agreement.

12. **Insurance.** Each Party shall bear the risk of its own actions, as it does with all its operations, and shall determine for itself an appropriate level of insurance coverage and maintain such coverage. Nothing in this Agreement shall be construed as a waiver of any limitation on liability that may apply to a Party.

13. **Non-appropriation.** Every payment obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the Parties at the end of the period for which funds are available. No liability shall accrue to the Parties in the event this provision is exercised, and the Parties shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

14. **No Third-Party Beneficiaries.** Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or affect the legal liability of any Party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

15. **Severability.** In the event that a court of competent jurisdiction shall hold any part or provision of this Agreement void or of no effect, the remaining provisions of this Agreement shall remain in full force and effect.

16. **Jurisdiction.** Nothing in this Agreement shall be construed as otherwise limiting or extending the legal Jurisdiction of any Party. Nothing in this Agreement is intended to confer any rights or remedies to any person or entity that is not a Party.

17. **Conflict of Interest.** The requirements of A.R.S. § 38-511 apply to this Agreement. The Parties may cancel this Agreement, without penalty or further obligation, if any person

significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of a Party is, at any time while this Agreement or any extension is in effect, an employee, agent or consultant of a Party with respect to the subject matter of this Agreement.

18. **Dispute Resolution.** The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

19. **Construction.** This Agreement shall be construed and in accordance with its fair meaning and shall not be construed for or against either Party.

20. **Headings.** The headings used in this Agreement are for convenience only and are not intended to alter or affect the meaning of any provision of this Agreement.

21. **Entire Agreement.** This document constitutes the entire Agreement between the Parties pertaining to the subject matter hereof. This Agreement shall not be modified, amended, altered or extended except through a written amendment signed by the Parties.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date herein before indicated.

City of Flagstaff	**Mountain Line**
_____	_____
Paul Deasy	Name: _____
Mayor	Title: _____
Dated: _____	Dated: _____

Attest:

_____
City Clerk

Dated: _____

_____ _____

_____ _____

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: Sterling Solomon
Title: City Attorney
Date:_____

REPRESENTING MOUNTAIN LINE:

The undersigned counsel for Mountain Line 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: Scott A. Holcomb
Title: General Counsel
Date:_____

4877-0201-7807 v1 [53963-1]

12. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Scott Mansfield, Police Lieutenant
Co-Submitter:	Jared Wotasik
Co-Submitter:	Stacey Brechler-Knaggs
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Adoption of Resolution No. 2022-12: A resolution approving an Intergovernmental Agreement between the City of Phoenix Police Department and the City of Flagstaff Police Department for the receipt of funding for the investigation of Internet crimes against children.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-12 by title only
2) City Clerk reads Resolution No. 2022-12 by title only (if approved above)
3) Adopt Resolution No. 2022-12

Executive Summary:

The Internet Crimes Against Children (ICAC) Program was developed in response to the increasing number of children and teenagers using the Internet, the proliferation of child pornography, sex trafficking, and heightened online activity by predators seeking unsupervised contact with potential underage victims. The Arizona Internet Crimes Against Children (AZICAC) Task Force is comprised of investigators from City, County, State, and Federal Agencies. Special emphasis is placed on locating, prosecuting, and imprisoning people who intentionally exploit children. Lead by the Phoenix Police Department's Internet Crimes Against Children Unit, the AZICAC Task Force diligently pushes to fulfill this goal with highly trained and professional investigators and cutting-edge forensics and technology. The Flagstaff Police Department has partnered with AZICAC since 2004. The AZICAC has been a valuable source of information and funding for training and equipment used within the Flagstaff Police Department's Regional Computer Forensics Lab. In turn, investigators from the Flagstaff Police Department follow up on leads generated by the Phoenix Police Department's Internet Crimes Against Children Unit for crimes being committed within our jurisdiction.

Financial Impact:

There is no significant financial impact to the Flagstaff Police Department in terms of expenditures. The Arizona ICAC provides money towards training and equipment via an annual grant on a reimbursement basis. There are budgeted funds in FY 2022 in the amount of $3,500 in account number 001-04-062-6278-2-4101.

Policy Impact:

None.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Regional Plan

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.

PBB Priorities

SOCIAL JUSTICE: Advance social justice in our community - By providing resources to assist some of the most vulnerable victims in Flagstaff.

Team Flagstaff Strategic Plan

Team Flagstaff Strategic Plan: 1.4 - Provide exceptional service - Provide employees tools, training, and support

Team Flagstaff Strategic Plan: 2.1 - Invest in our people - Ensure effective resources for our employees.

Team Flagstaff Strategic Plan: 2.3 - Invest in our people - Empower employees to make the City better

Has There Been Previous Council Decision on This:

The City of Flagstaff has entered into Intergovernmental Agreements with the Arizona Internet Crimes Against Children Task Force in previous years.

Options and Alternatives:

1. Approve the Intergovernmental Agreement between the Arizona Internet Crimes Against Children (ICAC)Task Force and the Flagstaff Police Department.
2. Reject the Intergovernmental Agreement between the Arizona Internet Crimes Against Children (ICAC) Task Force and the Flagstaff Police Department.

Background/History:

The Flagstaff Police Department has partnered with AZICAC since 2004. The AZICAC has been a valuable source of information and funding for training and equipment used within the Flagstaff Police Department’s Regional Computer Forensics Lab. In turn, investigators from the Flagstaff Police Department follow up on leads generated by the Phoenix Police Department's Internet Crimes Against Children Unit for crimes being committed within our jurisdiction. The mission of the Flagstaff Police Department is to preserve life and property. This IGA provides resources to help some of our most vulnerable victims.

Key Considerations:

This IGA allows for the Flagstaff Police Department to receive funding on a reimbursable basis to support our efforts to investigate, prosecute and deter the possession, production, and distribution of unlawful images depicting the sexual exploitation of minors, child sex trafficking, and the utilization of the internet to seek out children as sexual victims.

Expanded Financial Considerations:

There is no cost to the City of Flagstaff or the Flagstaff Police Department to enter into this agreement.

Community Benefits and Considerations:

The acceptance of this IGA allows for better training and coordination of the investigation of sex crimes involving the exploitation of children. The IGA also provides funding for outreach and education regarding the prevention of internet crimes against children.

Community Involvement:

Inform the City Council and the public on the resources this IGA will provide to the Flagstaff Police Department to help prevent the sexual exploitation of children.

Attachments: Res. 2022-12
ICAC IGA

RESOLUTION NO. 2022-12

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PHOENIX POLICE DEPARTMENT AND THE CITY OF FLAGSTAFF POLICE DEPARTMENT FOR THE RECEIPT OF FUNDING FOR THE INVESTIGATION OF INTERNET CRIMES AGAINST CHILDREN.

RECITALS:

WHEREAS, the Phoenix Police Department, through the Arizona Internet Crimes Against Children Task Force, is the recipient of the United States Department of Justice Office of Juvenile Justice and Delinquency Prevention grant regarding Internet Crimes Against Children; and

WHEREAS, the Phoenix Police Department has granted a sub award to the Flagstaff Police Department in the amount of $3,500; and

WHEREAS, the parties have previously had an intergovernmental agreement governing the grant of funds for the past 17 years; and

WHEREAS, the parties are empowered by Arizona Revised Statutes § 11-952 to enter into this agreement; and

WHEREAS, the City Council has read and considered the staff summary report and proposed IGA attached thereto and finds that it is in the best interests of the City to enter into the agreement.

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Council hereby authorizes the Mayor to execute the Intergovernmental Agreement between the City of Phoenix Police Department and the City of Flagstaff, Arizona, attached hereto as Exhibit A.

SECTION 2. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 5th day of April, 2022.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
IGA

ARIZONA INTERNET CRIMES AGAINST CHILDREN TASK FORCE

Intergovernmental Agreement

Between

Phoenix Police Department (Primary Grantee) /
Arizona ICAC Task Force Lead Agency

and

Flagstaff Police Department

THIS Intergovernmental Agreement ("IGA") is entered into between the City of Phoenix, Arizona, through the Phoenix Police Department ("PPD" or "Primary Grantee"), and the City of Flagstaff, Arizona, through the Flagstaff Police Department ("Affiliate Agency").

I. RECITALS

1.1 Whereas public agencies are authorized and empowered to enter into intergovernmental agreements for the provision of services or for joint or cooperative action pursuant to Arizona Revised Statutes (A.R.S.) §11-952. The City of Phoenix is also authorized and empowered pursuant to Chapter 2, Section 2 (i), of the Charter of the City of Phoenix.

1.2 Whereas the Phoenix Police Department / Arizona Internet Crimes Against Children Task Force ("ICAC Task Force") Lead Agency, is the recipient of the United States Department of Justice ("DOJ"), Office of Juvenile Justice and Delinquency Prevention ("OJJDP") grant regarding Internet Crimes Against Children ("ICAC"). The Task Force utilizes the grant, and funding from the Arizona Attorney General's Office, for the purpose of administering and operating an ICAC Task Force in Arizona. PPD is the primary grantee for the ICAC Task Force. Agencies affiliated through this IGA are known as "Affiliate Agencies".

1.3 Whereas the PPD / ICAC Task Force agrees to work with the affiliates to support and advance the goals of the Internet Crimes Against Children Task Force, a DOJ initiative. Phoenix PD / ICAC Task Force may be able to provide financial assistance to the Affiliate Agency, on a reimbursable basis, through various funding sources.

1.4 Whereas the OJJDP administers the ICAC Task Force Program, which is a national network of state and local law enforcement investigative units. The national ICAC program assists state and local law enforcement agencies in the

development of an effective response to cases involving images depicting the sexual exploitation of minors and the sexual assault and abuse of children facilitated by technology. Due in large part to the technological aspects of these cases, the ICAC Task Force Program promotes a multi-jurisdictional, multi-agency approach to investigating and prosecuting ICAC cases. ICAC's goals are to increase the investigations and prosecutions of Internet crimes against children offenses, and to increase public awareness and prevention of ICAC offenses.

1.5 Whereas the national policy objectives for ICACs are to:

(1) Increase the investigative capabilities, including effectiveness and efficiency, of law enforcement officers in the detection, investigation of qualifying offenses and the apprehension of offenders;
(2) Increase the number of ICAC-qualifying (state and federal) offenses being prosecuted;
(3) Create a multi-agency task force response to ICAC offenses;
(4) Enhance the nationwide response to ICAC offenses; and
(5) Develop and deliver ICAC public awareness and prevention programs.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties hereby agree to the following terms and conditions:

II. PURPOSE

2.1 The purpose of this IGA is to provide funding for the Affiliate Agency, on a reimbursable basis, to support their efforts to investigate, prosecute, and deter the possession, production, and distribution of unlawful images depicting the sexual exploitation of minors and the utilization of the Internet to seek children as sexual victims.

2.2 The purpose of this IGA is to memorialize parties' agreement to work together to assist the ICAC Task Force in its efforts to investigate, prosecute, and deter the possession, production, and distribution of unlawful images depicting the sexual exploitation of minors and the utilization of the Internet to seek children as sexual victims.

2.3 Additionally, this IGA defines the responsibilities of the Affiliate Agency with the ICAC Task Force.

III. RESPONSIBILITIES

3.1 Affiliated ICAC Task Forces may include investigators, supervisors, or prosecutors from various local, state, and federal law enforcement agencies who provide assistance, subject to availability.

3.2 Affiliated ICAC Task Forces should identify and investigate individuals who exploit children for sexual purposes through the use of technology and/or who obtain, distribute, and/or produce child pornography.

3.3 Affiliated ICAC Task Forces should be focused on presenting evidence of criminal activity to prosecutors, which then leads to the successful prosecution of individuals who have committed coercion/enticement or unlawful image offenses.

3.4 Affiliated ICAC Task Forces may, subject to availability, sponsor community education efforts regarding the prevention of Internet crimes against children and provide ICAC training to other state and local law enforcement officials.

3.5 Affiliated ICAC Task Forces may, subject to availability:

(1) Conduct undercover ICAC investigations; and
(2) Conduct reactive investigations for which venue lies within the agency's jurisdiction(s), including investigations of unlawful images depicting the sexual exploitation of minors, CyberTip referrals from the National Center of Missing and Exploited Children (NCMEC), Internet Service Provider and law enforcement referrals, other ICAC-related investigations, and other sources.

3.6 The Affiliated ICAC Task Force will ensure that:

(1) Only sworn law enforcement personnel will conduct undercover ICAC investigations;
(2) Each investigator involved with undercover operations has received ICAC training prior to initiating investigations; and
(3) ICAC investigations shall also be governed by the national ICAC program's Standard Operating Procedures (Attachment A).

3.7 Where investigations reveal that the safety of a child is at risk, it is of paramount importance that the safety and well-being of the child clearly outweigh any consideration being given to the continued investigation.

3.8 ICAC Task Forces have a substantial number of matters to investigate which requires prioritization of these matters. The Affiliate Agency agrees to use the guidelines in the ICAC Standard Operating Procedures (Attachment A) to prioritize cases.

3.9 An additional secondary role of the Affiliate Agency is to educate, as time and resources permit, both children and parents regarding online dangers, and empower them with information so they may visit the Internet in safety. Task force personnel may conduct education and prevention programs to foster awareness and provide practical, relevant guidance to the community about Internet child safety issues.

IV. DURATION AND TERMINATION

4.1 This IGA shall become effective upon the date of the last signature of the executing parties and will supersede any pre-existing agreements between the Affiliate Agency and the Arizona ICAC Task Force. This IGA will remain in effect

for five (5) years after the IGA becomes effective, unless the agreement is terminated in writing by either party upon thirty (30) day notice.

4.2 Violation of the ICAC Standard Operating Procedures (Attachment A) is considered a material breach of this agreement and cause for cancellation of Affiliate Agency's affiliation with the Arizona ICAC Task Force. Upon discovering a violation and notifying the Affiliate Agency, the Primary Party may cancel the contract and rescind any funding under this agreement.

V. GENERAL PROVISIONS

5.1 Conflict of Interest. This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511.

5.2 Immigration law compliance and warranty. As required by A.R.S. § 41-4401, each party hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Each party further warrants that after hiring an employee, it verifies the employment eligibility of the employee through the E-Verify program. If either party uses any subcontractors in performance of the IGA, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the IGA, subject to penalties up to, and including, termination. A party shall not be deemed in material breach if it and/or its subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). Each party retains the legal right to inspect the papers of the other party and/or its subcontractor engaged in performance of this IGA to ensure that the other party and/or its subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

5.3 Communication between state and local government agencies and federal immigration authorities; compliance. As required by 8 U.S.C. § 1373, each party hereby agrees that, notwithstanding any other provision of federal, state, or local law, it will not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, federal immigration authorities, including US Immigration and Customs Enforcement (ICE), US Customs and Border Protection (CBP), or US Citizenship and Immigration Services (USCIS), information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

5.4 Indemnification. To the extent permitted by law, each party will indemnify and save the other party harmless, including any of the parties' departments, agencies, officers, employees, elected officials or agents, from and against all loss,

expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or non-performance by the indemnifying party of any of the provisions of this IGA.

Each party, in all instances, shall be indemnified against all liability, losses, and damages of any nature for, or on account of, any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or non-performance of this IGA by the other party, except such injury or damage as shall have been occasioned by the negligence of that other party. The damages incurred by the other party, their department, agencies, officers, employees, elected officers, or agents shall include in the event of any action, court costs, expenses for litigation and reasonable attorneys' fees.

The parties are responsible and liable for the acts and omissions of their own officers, agents, or employees in connection with the performance of their official duties under this IGA.

This agreement does not relieve either agency of its official duties and shall not be construed as limiting or expanding the statutory responsibilities of the parties.

5.5 Binding effect. All terms, provisions, and conditions hereof shall be binding upon and inure to the benefit of all parties hereto and their respective heirs, personal representatives, successors, and assigns.

5.6 Severability. In the event any term or provision of this IGA is held to be invalid or unenforceable, the validity of the other provisions shall not be affected, and the IGA shall be construed and enforced as if it did not contain the particular term or provision that is deemed to be invalid or unenforceable.

5.7 Governing law. This IGA will be governed by the laws of the State of Arizona, both as to interpretation and performance.

5.8 Modification. This IGA may be modified only by mutual written agreement of the parties.

VI. SPECIAL PROVISIONS

6.1 Goals for cases prosecuted. Various County Attorneys' Offices throughout the State of Arizona have successfully prosecuted many cases investigated by the ICAC Task Force and its affiliated agencies. Cases investigated by the ICAC Task Force may be prosecuted in Federal or State Court.

The affiliated agency agrees that the criteria for determining whether to prosecute a particular violation in state or federal court will be determined based upon the forum in which the greatest overall benefit to the public will be achieved. The parties agree that the greatest overall benefit to the public and victims will be achieved in the forum in which the purposes of punishment will be accomplished

to the greatest possible extent. The parties agree that the sentences in ICAC cases should, to the greatest possible extent:

(1) Reflect the seriousness of the offense;
(2) Promote respect for the law;
(3) Provide just punishment for the offense;
(4) Afford adequate deterrence to criminal conduct;
(5) Protect the public from further crimes of the defendant; and
(6) To provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

Given these goals and the research regarding the typical hands-on offense histories of those convicted as on-line predators and child pornography offenders, incarceration is a desired outcome in ICAC cases.

6.2 Reporting statistics. The Affiliate Agency will provide monthly reports to the Phoenix PD / ICAC Task Force in the prescribed format, no later than ten (10) days after the end of the preceding month. If statistics are not provided by the deadline, any funding will be suspended until the reporting requirement is met.

6.3 Training. The affiliated agency may make investigators available for applicable specialized training provided through the national ICAC program and other appropriate training programs.

6.4 Media. Media outreach on cases should be coordinated with the prosecutor to whom the case has been, or will be, referred in order to ensure compliance with applicable bar rules. All lawful efforts will be made to protect ongoing undercover operations from media publication. Member agencies will refrain from unnecessarily releasing ongoing investigative techniques and ongoing undercover identities, including screen names, age or sex of undercover personas, unless authorized and mandated by public record law, or when the information is revealed pursuant to lawful discovery or at trial.

6.5 Confidentiality. It is understood that any confidential information pertaining to investigations of ICAC will be held in the strictest confidence, and will only be shared with participating ICAC Task Force members or other law enforcement agencies where necessary, or as otherwise permitted by federal and/or state law.

6.6 Text messaging while driving. Pursuant to Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving,” 74 Fed. Reg. 51225 (October 1, 2009), the Department encourages recipients and sub recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this IGA, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

6.7 Data protection. All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to affiliate agencies in connection with this agreement is to be kept confidential. Except as specifically provided in this IGA, the affiliate agencies shall not disclose data generated in the performance of the service to any third person without the prior written consent of all affiliate agencies, unless required by law.

Personal identifying information, financial account information, or restricted information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, affiliate agencies must encrypt and/or password protect electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices.

Unless contrary to law, which includes Arizona State Records Retention statutes, when personal identifying information, financial account information or restricted information, regardless of its format, is no longer necessary, the information must be redacted, destroyed or secured through appropriate and secure methods that ensure the information cannot be viewed, accessed or reconstructed.

In the event that data collected or obtained by the affiliate agencies in connection with this IGA is believed to have been compromised, affiliate agencies shall notify all other agencies in writing within ten (10) business days.

Affiliate agencies agree that the requirements of this section shall be incorporated into all relevant subcontractor/subconsultant agreements entered into by the affiliate agencies. A violation of this section may result in immediate termination of the IGA.

The obligations of affiliate agencies under this section shall survive the termination of this agreement.

6.8 Consistency. No local agreement can be inconsistent with any provision herein or impair achievement of any provision herein.

6.9 Return of Proceeds of Sale or Auction. Affiliate agencies are prohibited from retaining the proceeds from the sale or auction of any equipment purchased with funding provided pursuant to this IGA. In the event that an affiliate agency sells or auctions any equipment purchased with funding provided pursuant to this IGA, the affiliate agency shall return the proceeds from the sale or auction of equipment to the City of Phoenix. The City of Phoenix shall remit the proceeds returned to the original funding source. The City of Phoenix shall have the authority to audit the records of an affiliate agency as shall be deemed proper to ensure that the proceeds from the sale or auction of any equipment purchased with funding provided pursuant to this IGA have been accounted for and returned pursuant to this section.

6.10 Affiliate Agency must abide by all federal, state, and local grant regulations.

IN WITNESS WHEREOF, the parties enter into this Agreement:

City of Phoenix, Arizona
An Arizona Municipal Corporation
(Primary Grantee)

_____
Jeri L. Williams
Police Chief
Phoenix Police Department

_____
Date

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
Acting City Attorney

City of Flagstaff, Arizona
An Arizona Municipal Corporation
(Affiliate)

_____
(Authorized Signature)

_____
Printed Name, Title

_____
Date

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with the requirements of A.R.S. § 11-952 (D), each of the undersigned attorneys Acknowledge: (1) that they have reviewed the above IGA on behalf of their respective clients; and, (2) that, as to their respective clients only, each attorney has determined that this IGA is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

City of Phoenix (Primary Grantee)	City of Flagstaff (Affiliate)
_____	_____
Sandra Hunter, Asst. Chief Counsel	Signature
	_____
	Printed Name, Title
_____	_____
Date	Date

12. E.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Rick Tadder, Management Services Director

Date: 03/30/2022

Meeting Date: 04/05/2022

TITLE:

Consideration and Adoption of Ordinance No. 2022-07: An ordinance of the Council of the City of Flagstaff, Arizona approving the form and authorizing the execution and delivery of a loan agreement with the Water Infrastructure Financing Authority of Arizona from its Clean Water Revolving Fund program; delegating the determination of certain matters relating thereto to the Mayor, the City Manager and the Management Services Director of the City; providing the transfer of certain moneys and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by such loan agreement and this ordinance and establishing an effective date.

STAFF RECOMMENDED ACTION:

At the April 5, 2022 Council Meeting:

1) Read Ordinance No. 2022-07 by title only for the first time
2) City Clerk reads Ordinance no. 2022-07 by title only (if approved above)

At the April 19, 2022 Council Meeting:

3) Read Ordinance No. 2022-07 by title only for the final time
2) City Clerk reads Ordinance no. 2022-07 by title only (if approved above)
3) Adopt Ordinance No. 2022-07

Executive Summary:

This ordinance allows for the City of Flagstaff to enter into a loan agreement with the Water Infrastructure Finance Authority (WIFA) for the purpose of financing certain cost of the Rio de Flag Flood Control Project. An ordinance is required to borrow money, pursuant to City Charter ARTICLE VI - FINANCE AND TAXATION, Section 5 - WHEN ACTIONS ARE TO BE TAKEN BY ORDINANCE.

Financial Impact:

The City anticipates a WIFA loan will be issued in April 2022 for the Rio de Flag Project. This will be the first issuance of debt related to the Rio de Flag Flood Control Project. Debt service has been budgeted in the Stormwater 5-Year Plan. In December 2018 City Council adopted Stormwater rates to generate revenues sufficient to allow the City to issue approximately $36 million in revenue-backed debt to fund major Stormwater capital improvement projects.

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

PRIORITY BASED BUDGETING KEY COMMUNITY PRIORITIES:
Sustainable, Innovative Infrastructure: Deliver outstanding services to residents through a healthy, well maintained infrastructure system.
Safe & Healthy Community: Foster a safe, secure, and healthy community.

REGIONAL PLAN:
Goal WR.5. Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections, and rainwater harvesting.
Goal WR.6. Protect, preserve, and improve the quality of surface water, groundwater, and reclaimed water in the region.

CARBON NEUTRALITY:
CR-1: Ensure all mitigation actions improve Flagstaff's ability to adapt to the future.
CR-2: Strengthen existing community systems to create resilience to both short-term shocks and long-term change.

Has There Been Previous Council Decision on This:

On July 5, 2019 Council adopted Reimbursement Resolution 2019-42 declaring the City's official intent to reimburse itself for an original expenditure with proceeds from a reimbursement bond, for up to $18,000,000 for stormwater projects.

On February 15, 2022 Council adopted Resolution 2022-06 authorizing the City to apply to WIFA for a loan of up to $20,000,000 for the Rio de Flag Flood Control Project.

Options and Alternatives:

- Approve the Ordinance as written allowing the City to move forward with the loan agreement.
- Recommend changes to the Ordinance modifying the loan agreement.
- Do not approve the authority to enter into a loan agreement. This will delay financing of infrastructure and may result in higher interest rates.

Background/History:

The City of Flagstaff has been working several years with the U.S. Army Corps of Engineers for the construction of the Rio de Flag Flood Control Project. For more information on the project, please visit this website: https://www.flagstaff.az.gov/4189/Rio-De-Flag-Flood-Control-Project. As part of the Project Cooperation Agreement, the City of Flagstaff agreed to share cost of the project. In July 2020, the U.S. Army Corps of Engineers submitted a request for the City of Flagstaff to provide $15,077,177 as part of the cost sharing agreement to provide funding for the continued design and construction of the Rio de Flag Flood Control Project. The City has always intended on financing this portion of the shared costs. In addition, the City anticipates financing the cost of future land and right-of-way acquisitions, future studies and various cost required for the project.

Staff worked with our Financial Advisor, Stifel, Nicolas and Company (Stifel) to determine the best financing approach. The City and Stifel, contacted the state's Water Infrastructure Financing Authority (WIFA) to discuss the project and financing needs of the City. WIFA is responsible for helping smaller to medium-sized communities lower the cost of financing water and wastewater projects. WIFA is authorized to finance the construction, rehabilitation and/or improvement of drinking water, wastewater, wastewater reclamation, stormwater and other water quality facilities/projects. The term of the loan is estimated to be 25 years and may include $1 million or more of forgivable principal (grant funds). WIFA will also provide low-interest rate loans (subsidized by the federal government) and which is currently estimated at less than 2.0%. Stifel is assisting the City with providing WIFA the required Project Finance

Application and related documentation for this project and is anticipated to be discussed and approved at the Arizona Finance Authority Board of Directors meeting in April of 2022.

The proposed ordinance includes the maximums contemplated to be issued to provide the greatest flexibility in both amount and timing. While the purpose of this agenda item is to approve an ordinance to allow the City to issue debt, we have included a draft WIFA loan agreement as an informational document you may review. This document has been reviewed by our Financial Advisors and Bond Counsel, Greenberg Traurig, LLP. Once we have WIFA support to move forward with the loan, these documents will be updated to the final form. Final documents will be available upon request to the Management Services Director.

Expanded Financial Considerations:

The new loan will be paid through existing Stormwater rates.

Community Involvement:

The process to authorize the issuance of debt is to INFORM the public.

Attachments: Ord. 2022-07
Preliminary Loan Agreement
Resolution Authorizing WIFA Loan Application
Reimbursement Resolution

ORDINANCE NO. 2022-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA FROM ITS CLEAN WATER REVOLVING FUND PROGRAM; DELEGATING THE DETERMINATION OF CERTAIN MATTERS RELATING THERETO TO THE MAYOR, THE CITY MANAGER AND THE MANAGEMENT SERVICES DIRECTOR OF THE CITY; PROVIDING FOR THE TRANSFER OF CERTAIN MONEYS AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY SUCH LOAN AGREEMENT AND THIS ORDINANCE AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff, Arizona (the "City"), has heretofore applied to the Water Infrastructure Finance of Arizona (the "Authority"), for a loan (the "Loan") from the Authority's Clean Water Revolving Fund Program (the "Program") to provide funds for the Rio de Flag Flood Control Project and the payment of the City's proportionate share of expenses of administering the Program and any bonds issued by the Authority with respect thereto (collectively, the "Project"); and

WHEREAS, the terms and conditions under which the Loan will be made and the obligations of the City with respect to the Loan will be set forth in a loan agreement to be executed and delivered by the City and the Authority (the "Loan Agreement"); and

WHEREAS, the Loan and the loan repayments payable by the City pursuant to the Loan Agreement (the "Loan Repayments") will be secured by a pledge of the net revenues of the City's water, sewer and stormwater utility system (the "Source of Repayment"); and

WHEREAS, the Mayor and Council of the City have determined that it will be beneficial to the citizens of the City to enter into and to perform the Loan Agreement, whereby the City will borrow not to exceed $20,000,000 from the Authority; and

WHEREAS, the Loan shall be repaid on or before July 1, 2047 (25 years) from the date of the execution and delivery of the Loan Agreement and shall bear interest at a rate not to exceed five percent (5%) per annum; and

WHEREAS, there has been placed on file with the Clerk of the City and presented at the meeting at which this Ordinance was adopted the proposed form of the Loan Agreement.

ENACTMENTS:

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

SECTION 1. The form, terms and provisions of the Loan Agreement, in the form of such document (including the exhibits thereto) presented at the meeting at which this Ordinance was adopted are hereby approved, with such insertions, omissions and changes, not inconsistent with the application of the City to the Authority or the requirements of the federal government or the Authority, as shall be approved by the Mayor, the City Manager or the Management Services Director of the City, the execution of such document being conclusive evidence of such approval, and the Mayor, the City Manager, the Management Services Director and the Clerk of the City are hereby authorized and directed, as applicable, for and on behalf of the City, to execute and attest and deliver, respectively, the Loan Agreement.

SECTION 2. For the payment of the principal of and interest on the Loan, the City shall pay the Loan Repayments provided for in the Loan Agreement. The City shall also pay all other amounts required to be paid by the City pursuant to the provisions of the Loan Agreement.

SECTION 3. The obligation of the City to pay the Loan Repayments provided for in the Loan Agreement as well as to make the other payments provided for in the Loan Agreement is limited to payment from the Source of Repayment which is pledged therefor pursuant to the Loan Agreement, and the obligations of the City pursuant to the Loan Agreement shall not constitute or give rise to a general obligation of the City or any claim against its ad valorem property taxing powers, or constitute an indebtedness within the meaning of any statutory or constitutional debt limitation applicable to the City.

SECTION 4. The appropriate officials and officers of the City are hereby authorized and directed to take all action necessary or reasonably required to carry out, give effect to and to consummate the transactions contemplated by the Loan Agreement and by this Ordinance, including, without limitation, the execution and delivery of any closing and other documents reasonably required to be delivered in connection therewith.

SECTION 5. If any section, paragraph, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be illegal or unenforceable, such decision will not affect the validity of the remaining portions of this Ordinance. The Council of the City hereby declares that it would have adopted this Ordinance and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the execution and delivery of the Loan Agreement pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Ordinance may be held illegal, invalid or unenforceable. All ordinances, resolutions or parts thereof, inconsistent herewith, are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any ordinance or resolution or any part thereof.

SECTION 6. All actions of the officers and agents of the City including the Mayor and Council of the City which conform to the purposes and intent of this Ordinance and which further the execution and delivery of the Loan Agreement as contemplated by this Ordinance, whether heretofore or hereafter taken, are hereby ratified, confirmed and approved. The proper officers and agents of the City are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the City as may be necessary to carry out the terms and intent of this Ordinance.

SECTION 7. All acts and conditions necessary to be performed by the City or to have been met precedent to and in the execution and delivery of the Loan Agreement in order to make it a legal, valid and binding obligation of the City will at the time of delivery of the Loan Agreement have been performed and have been met, in regular and due form as required by law, and no statutory, charter or constitutional limitation of indebtedness or taxation will have been exceeded in the execution and delivery of the Loan Agreement.

SECTION 8. All formal actions of the Mayor and Council of the City concerning and relating to the passage of this Ordinance were taken in an open meeting of the Mayor and Council of the City, and all deliberations of the Mayor and Council of the City and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION 9. After the execution and delivery of the Loan Agreement and upon receipt of the Loan from the Authority, this Ordinance shall be and remain irrepealable until the Loan and the Loan Agreement and the interest thereon shall have been fully paid, cancelled and discharged.

SECTION 10. This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 19th day of April, 2022.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CERTIFICATION

I hereby certify that the foregoing Ordinance No. 2022-07 was duly passed and adopted by the Mayor and Council of the City of Flagstaff, Arizona, at a regular meeting held on the 19th day of April 2022, and the vote was …….. ayes and …….. nays and that the Mayor and …….. Councilmembers were present thereat.

.....
Stacy Saltzburg, City Clerk, City of Flagstaff, Arizona

City of Flagstaff and

Water Infrastructure Finance Authority of Arizona

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City of Flagstaff's Borrowing Resolution

TO BE PROVIDED BY BORROWER PRIOR TO CREATION OF LOAN CLOSING DOCUMENTS

Loan Resolution TBD – City of Flagstaff

Water Infrastructure Finance Authority of Arizona

Section 1: Resolution

WHEREAS, the Water Infrastructure Finance Authority of Arizona (the "*Authority*") has received from City of Flagstaff (the *"Local Borrower"*) a request for a loan (the "*Loan*"); and

WHEREAS, the Authority has determined that the Local Borrower has met the requirements of Arizona Revised Statutes §49-1201 et seq. (the "*Act*") and the rules promulgated thereunder (the *"Rules"*); and

WHEREAS, the terms and conditions under which a Loan will be made and the obligations of the Local Borrower will be set forth in a loan agreement or bond purchase agreement (the "*Loan Agreement*") to be executed by the Local Borrower and the Authority.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AUTHORITY AS FOLLOWS:

The Executive Director of the Authority is hereby authorized and directed to execute a Loan Agreement with the Local Borrower to evidence a Loan in accordance with the Act, the Rules, the Local Borrower's applications to the Authority, and the Project Summary detailed in Section 2 of this Loan Resolution.

The Executive Director and other Authority officials, as appropriate, are authorized and directed to sign any document and take such actions as necessary and appropriate to consummate the transactions contemplated by this Resolution and the Loan Agreement and to ensure that the Local Borrower has completed all requirements of the Authority as detailed in Section 3, Section 4, and Section 5 of this Loan Resolution.

This Resolution shall take effect immediately and shall terminate one year from the date of Board Action.

Dated: TBD

By:_____ Attest:_____

Chairman Executive Director

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Section 2: Project Summary

2.1 Project Number(s)

CW 010-2022

2.2 Project Priority Data

PPL Rank	Funding Cycle	Population Served	Subsidy Rate
4	2022	76,831	85%

2.3 Project Description(s)

The City is seeking to finance $20,000,000 for its stormwater capital improvements including Rio de Flag improvements with the Army Corps of Engineering. The City has paid a portion of the City's share of the cost and will be seeking loan funding for this payment as well as future costs incurred by the City for things such as property acquisitions, right-of-way purchases and additional City match for the project.

2.4 Previous Board or Committee Actions

December 18, 2019 – Board adopted Loan Resolution 2020-010 to award $6,000,000 with $1,000,000 in forgivable principal (WIFA Loan #910181-20) to the City of Flagstaff to leverage the multi-agency funding of the Flagstaff Watershed Protection Project.

June 17, 2011 – Board adopted Loan Resolution 2011-049 to award $1,833,000 (WIFA Loan #920212-11) to the City of Flagstaff for a drinking water project.

June 25, 2009 – Board adopted Loan Resolution 2009-065 to award $800,000 (WIFA Loan #720011-10) to the City of Flagstaff for a local aquifer study.

June 25, 2009 – Board adopted Loan Resolution 2009-066 to award $1,000,000 (WIFA Loan #920173-10) to the City of Flagstaff for a drinking water project.

May 27, 2009 – Board adopted Loan Resolution 2009-032 to award $775,000 (WIFA Loan #92A148-10) to the City of Flagstaff for a drinking water project.

September 17, 2008 – Board adopted Loan Resolution 2009-002 to award $2,100,000 (WIFA Loan #920145-10) to the City of Flagstaff for a drinking water project.

March 5, 2008 – Board adopted Loan Resolution 2008-007 to award $8,500,000 (WIFA Loan #920136-09) to the City of Flagstaff for a drinking water project.

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February 15, 2006 – Board adopted Loan Resolution 2006-005 to award $15,000,000 (Loan #920105-07 for $7,900,000) to the City of Flagstaff for a drinking water project.

June 21, 2006 – Board adopted Loan Resolution Addendum A2006-014 to extend Loan Resolution 2005-009 due to delays with construction of the wastewater project (Loan #910083-07 for $23,100,000).

June 15, 2005 – Board adopted Loan Resolution 2005-009 to award $23,100,000 to the City of Flagstaff for a wastewater project.

February 21, 2002 – Board adopted Loan Resolution 2002-004 to award $6,775,760 to the City of Flagstaff for drinking water project.

July 16, 1992 – Board adopted Loan Resolution 92-2(B) to award $5,877,942 to the City of Flagstaff for drinking water project.

2.5 Project Finance Committee Recommendations

Not reviewed by the Project Finance Committee

Section 3: Financial Assistance Terms & Conditions (Section 7.1 of Due Diligence)

Financial Assistance Amount: $20,000,000.00

Primary Repayment Source: Utility System Revenues (Water, Wastewater, Stormwater)

Secondary Repayment Source: None

Loan Term: 20 years

Frequency of Repayment: Semi-Annual

Loan Structure: Standard Governmental - Level 1 (complying with existing WIFA loan and bond covenants)

Debt Service Reserve Fund Requirements: No Requirement

Repair and Replacement Fund Requirements: No Requirement

Requirements Prior to Loan Execution:

Require Legal Opinion: Yes

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Other: No Requirement

Requirements Prior to Construction: No Requirement

Requirement During Construction: No Requirement

Requirements Prior to Final Disbursements: No Requirement

Loan Category: Qualified, Not Pledged

Policy Exceptions: None

Section 4: Technical Terms & Conditions (Section 7.2 of Due Diligence)

Observation Schedule B:

Observation 1: Upon borrower notification of construction commencement

Additional Observations: at least one site observation within each 12 month period

Final Observation: 80% construction budget disbursement

Withholding Percentage:

10% (released after deliverables received)

Requirements Prior to Loan Execution: No Requirement

Requirements Prior to Construction:

Prior Review and Approval of Construction Bids: Yes

Require Construction Signs: Yes

The Local Borrower shall erect a construction sign displaying information on the Project and the funding sources. The Authority shall provide specifications for such construction signs.

Other: Yes

The City of Flagstaff must provide a completed Enviromental Impact Statement (EIS) decision provided by the Army Corp of Engineers.

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Requirements During Construction:

Prior Review of Changes in Project Scope: Yes

The Local Borrower shall submit to the Authority, for review and approval prior to execution, any change to the plans and specifications, construction contracts, Eligible Project Costs, or any other change which will effect the performance standards or purpose of the Project.

Other: No Requirement

Requirements Prior to Final Disbursements:

Require Plan of Operation: Yes

Require Final Approval: Yes

Other: No Requirement

Policy Exceptions: None

Section 5: Additional Notice & Reporting Requirements (Section 7.3 of Due Diligence)

Other: Wage rate reporting requirements; Use of American Iron and Steel

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Loan Agreement

Water Infrastructure Finance Authority of Arizona
(the "Authority")

and

City of Flagstaff
(the "Local Borrower")

Evidencing a Loan from the
Authority to the Local Borrower

Dated as of TBD

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Exhibit G Opinion of Counsel to Borrower

Exhibit H Tax Compliance Certificate of Local Borrower

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Loan Agreement

This Loan Agreement (this "*Loan Agreement*") is made and entered into as of TBD by and between the Water Infrastructure Finance Authority of Arizona (the "*Authority*"), and City of Flagstaff (the "*Local Borrower*"), a political subdivision of the State of Arizona.

This Loan Agreement includes the attached Exhibits and the attached Standard Terms and Conditions. Any capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Exhibits and the Standard Terms and Conditions.

The Authority and the Local Borrower agree as follows:

Article 1 Description of the Loan

Section 1.1 Name and Address of Local Borrower.

City of Flagstaff
Attention: Rick Tadder, Management Services Director
211 W Aspen Ave
Flagstaff, Arizona 86001
Telephone: (928) 213-2205

Section 1.2 Authorized Officer(s) of Local Borrower.

City of Flagstaff
Attention: Mr Rick Tadder, Management Services Director
211 W Aspen Ave
Flagstaff, Arizona 86001
Telephone: (928) 213-2205

Section 1.3 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Local Borrower at the address specified in Section 1.1 and to the Authority at the following address:

Executive Director
Water Infrastructure Finance Authority of Arizona
100 North 7th Avenue, Suite 130
Phoenix, Arizona 85007
Telephone: (602) 364-1310
Fax: (602) 364-1327

Any of the parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

Section 1.4 Loan Information. The terms of the Loan include the terms set forth in the Exhibits, which are part of this Loan Agreement:

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Exhibit A Financial Assistance Terms and Conditions; Borrower Payment Instructions; and Loan Repayment Schedule

Exhibit B Technical Assistance Terms and Conditions

Exhibit C Reporting Requirements

Exhibit D Source of Repayment

Exhibit E Debt Service Reserve Requirements

Exhibit F Replacement Reserve Requirements

Exhibit G Opinion of Counsel to Borrower

Exhibit H Tax Compliance Certificate of Local Borrower

Prior to Loan Closing, the Local Borrower must deliver to the Authority the Opinion of Local Borrower Counsel in the form of Exhibit G and the Tax Compliance Certificate of Local Borrower in the form of Exhibit H, signed and dated the date of Loan Closing.

Article 2 Description Of The Project

Section 2.1 Description of Project. The Project is described in Project Summary attached to the Loan Resolution of the Authority, and in Exhibit B of this Loan Agreement.

Section 2.2 Description of System. The term "System" means and includes all of the properties and facilities of the complete Stormwater, Sewer and Waterworks plant and system of the Local Borrower, whether lying within or without the boundaries of the Local Borrower, as now existing and as they may hereafter be improved or extended, all improvements, additions and extensions thereto or replacements thereof hereafter constructed or acquired by purchase, contract or otherwise and all contracts, rights, agreements, leases and franchises of every nature owned by the Local Borrower and used or useful or held for use in the operation of said plant and system or any part or portion thereof.

Article 3 Loan to Local Borrower; Amounts Payable

Section 3.1 The Loan. The Authority shall loan and disburse to the Local Borrower in accordance with this Article 3 an amount listed in Exhibit A (the "Loan"), and the Local Borrower shall borrow and accept from the Authority, the Loan in the principal amount determined pursuant to this Article 3; provided, however, that (i) the Authority shall be under no obligation to disburse any amount of the Loan if an Event of Default has occurred and is continuing under this Loan Agreement, and (ii) the amount to be disbursed shall be lawfully available for disbursement. The Local Borrower shall use the proceeds of the Loan strictly in accordance with the requirements of this Loan Agreement.

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Section 3.2 Disbursements of Loan Proceeds. The Authority may disburse funds by check, by electronic means or by means of magnetic tape or other transfer medium. Except as hereinafter provided, disbursements shall be made only when (i) the request for disbursements is in substantially the form provided by the Authority and is accompanied by the necessary certifications and documentation and (ii) an Authorized Officer of the Authority has determined that such disbursement is proper. An Authorized Officer of the Authority shall approve disbursements directly to the persons or entities entitled to payment or to the Local Borrower in the case of reimbursement for costs of services already paid, and shall provide the Local Borrower with a copy of the approval and the date approved. Disbursements may be made only for Eligible Project Costs.

Section 3.3 Amounts Payable. The Local Borrower shall pay to the Authority the amounts shown in Exhibit A on or before the dates shown in Exhibit A, as the same may be adjusted as provided in the Standard Terms and Conditions, to reflect any revisions to the principal repayment schedule of the Loan. Such payments shall be made by electronic funds transfer or by direct debit to the Authority.

Section 3.4 Tax Covenants.

(a) General. The Local Borrower acknowledges that, in connection with its state revolving fund programs, the Authority issues its bonds ("Authority Bonds") from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be an obligation that bears interest that is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. Therefore, the Local Borrower represents and covenants as follows with respect to the Loan and the Authority Bonds. The Local Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Loan or the Authority Bonds under Section 103(a) of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon a bond counsel opinion as may rescind or otherwise negate such action or omission. The Local Borrower will not directly or indirectly use or permit the use of any proceeds of the Loan or any other funds of the Local Borrower or take or omit to take any action that would cause the Loan or the Authority Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) of the Internal Revenue Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. To that end, the Local Borrower will comply with all applicable requirements of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Loan.

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(b) Modification Based on Bond Counsel Opinion. Notwithstanding any provision of this Section, if the Local Borrower provides to the Authority a bond counsel opinion to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Loan or the Authority Bonds pursuant to Section 103(a) of the Internal Revenue Code, the provisions of this Section and the covenants in this Section shall be deemed to be modified to that extent.

(c) Bond Counsel Opinion. For purposes of this Section, "bond counsel opinion" means an opinion letter of a firm of attorneys of national reputation experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds, and who is acceptable to the Authority.

IN WITNESS WHEREOF, the Authority and the Local Borrower have caused this Loan Agreement to be executed and delivered as of the date of execution hereof.

Water Infrastructure Finance Authority of Arizona

By: _____
Dan Dialessi, Executive Director

City of Flagstaff

By:_____
Rick Tadder, Management Services Director

Attest:

By: _____
Clerk

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LOAN AGREEMENT ADDENDUM

Wage Rate and Forgivable Principal Requirements for Compliance with P.L. 111-88

Water Infrastructure Finance Authority of Arizona

This document (this "Wage Rate and Forgivable Principal Addendum") sets forth additional requirements applicable to state revolving fund Loans made by the Water Infrastructure Finance Authority of Arizona ("WIFA") that are subject to the requirements of Public Law 111-88, "Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes," enacted October 30, 2009 ("P.L. 111-88"). The provisions in this Wage Rate and Forgivable Principal Addendum are a part of the Loan Agreement. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

The parties acknowledge and agree that funds disbursed by WIFA to the Local Borrower will include funds made available to WIFA by the federal government under P.L. 111-88, and that the requirements of P.L. 111-88 include those set forth in this Wage Rate and Forgivable Principal Addendum. The Local Borrower agrees to comply with all of those requirements and agrees that failure to do so is a breach of the provisions of the Loan Agreement which may result in a default under the Loan Agreement, termination of WIFA's obligation to make disbursements on the Loan and the Local Borrower being required to repay all amounts that have been disbursed by WIFA on the Loan, together with interest and fees as provided in the Loan Agreement (including interest and fees at rates adjusted from those originally in effect as described herein).

Additional Requirement for Subrecipients that are not Governmental Entities:

Obtaining Wage Determinations - Under this Wage Rate and Forgivable Principal Addendum, the non-governmental borrower must submit its proposed Davis Bacon wage determinations to WIFA for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors. **THIS PARAGRAPH DOES NOT APPLY TO GOVERNMENTAL ENTITIES.**

Section 1. P.L. 111-88 Compliance - Forgivable Principal Portion.

(a) Section 1 of Exhibit A to the Loan Agreement specifies the Total Financial Assistance Amount, the amount, if any, designated as the Forgivable Principal Portion, the Intended Repayment Amount, and the required amount of reserves to be established based upon the Intended Repayment Amount. Section 2 of Exhibit A to the Loan Agreement specifics a schedule of interest and principal payments based on the Intended Repayment Amount. If the Local Borrower fails to comply with the requirements of P.L. 111-88, including those set forth in this Wage Rate and Forgivable Principal Addendum:

(i) WIFA will provide a revised Exhibit A for the Loan Agreement to amortize the entire Total Financial Assistance Amount with the Forgivable Principal Portion set to $1,000,000.00, adjusted, as necessary, to incorporate, previous principal payments.

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(ii) The Local Borrower will repay the Total Financial Assistance Amount.

Section 2. P.L. 111-88 Compliance - Wage Rate Requirements.

This language must be included in all Davis Bacon covered construction contracts and subcontracts. (29 CFR Part 5.5)

(a) The Local Borrower shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in Sec. 5.1, or the FFY 2010 appropriation, the following clauses:

(1) **Minimum wages**. (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in Sec. 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Local Borrowers may obtain wage determinations from the U. S. Department of Labor's web site, www.wdol.gov.

(ii)(A) The Local Borrower, on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The WIFA award official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Local Borrower agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Local Borrower to the WIFA award official. The WIFA award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA Davis Bacon Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the WIFA award official or will notify the WIFA award official within the 30-day period that additional time is necessary.
(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Local Borrower do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the WIFA award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) **Withholding**. The Local Borrower shall upon its own action or upon written request of WIFA, EPA award official or an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

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including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records**. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Local Borrower. Such documentation shall be available on request of WIFA or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5 (a)(1) based on the most recent payroll copies for the specified week. **The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number).** The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347.pdf or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Local Borrower for transmission to WIFA or EPA, if requested by EPA, WIFA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a

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subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Local Borrower.
(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
(1) That the payroll for the payroll period contains the information required to be provided under Sec. 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sec. 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of WIFA. EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or WIFA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above,

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shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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(5) **Compliance with Copeland Act requirements**. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts**. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment**. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements**. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards**. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Local Borrower, WIFA, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility**. (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) **Contract Work Hours and Safety Standards Act**. The Local Borrower shall insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Sec. 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.
(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

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(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Local Borrower, upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR Sec. 5.1, the Local Borrower shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Local Borrower shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of WIFA, EPA and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Section 3. General Provisions.

(a) Binding Effect. This Wage Rate and Forgivable Principal Addendum shall inure to the benefit of and shall be binding upon WIFA and the Local Borrower and their respective successors and assigns.

(b) Severability. In the event any provision of this Wage Rate and Forgivable Principal Addendum shall be held illegal, invalid or unenforceable by any court of competent

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jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(c) Amendments, Supplements and Modifications. This Wage Rate and Forgivable Principal Addendum may not be amended, supplemented or modified without the prior written consent of WIFA and the Local Borrower.

(d) Execution in Counterparts. This Wage Rate and Forgivable Principal Addendum may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) Applicable Law. This Wage Rate and Forgivable Principal Addendum shall be governed by and construed in accordance with the laws of the State of Arizona.

(f) Captions. The captions or headings in this Wage Rate and Forgivable Principal Addendum are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions of this Wage Rate and Forgivable Principal Addendum.

(g) Further Assurances. The Local Borrower shall, at the request of WIFA , authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Wage Rate and Forgivable Principal Addendum.

(h) Arbitration. The parties hereto agree to use arbitration to the extent required by Section 12-1518 of the Arizona Revised Statutes.

(i) Notice Regarding A.R.S. § 38 511. To the extent applicable by provision of law, the parties acknowledge that this Wage Rate and Forgivable Principal Addendum is subject to cancellation pursuant to A.R.S. § 38-511, the provisions of which are hereby incorporated herein.

[SIGNATURE PAGE FOLLOWS]

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WIFA and the Local Borrower are signing this Wage Rate and Forgivable Principal Addendum to be effective as part of the Loan Agreement.

Water Infrastructure Finance Authority of Arizona

By: _____

Dan Dialessi, Executive Director

City of Flagstaff

By: _____

Rick Tadder, Management Services Director

[Signature page to Wage Rate and Forgivable Principal Addendum to Loan Agreement]

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LOAN AGREEMENT ADDENDUM

American Iron and Steel Requirements for Compliance with Federal Law

Water Infrastructure Finance Authority of Arizona

This document (this "American Iron and Steel Addendum") sets forth additional requirements made applicable to state revolving fund Loans made by the Water Infrastructure Finance Authority of Arizona ("WIFA") by federal law. The provisions in this American Iron and Steel Addendum are a part of the Loan Agreement. Capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

The parties acknowledge and agree that funds disbursed by WIFA to the Local Borrower will include funds made available to WIFA by the federal government under federal law, and that the requirements of federal law include those set forth in this American Iron and Steel Addendum. The Local Borrower agrees to comply with all of those requirements and agrees that failure to do so is a breach of the provisions of the Loan Agreement which may result in a default under the Loan Agreement, termination of WIFA's obligation to make disbursements on the Loan and the Local Borrower being required to repay all amounts that have been disbursed by WIFA on the Loan, together with interest and fees as provided in the Loan Agreement.

Federal law requires that WIFA include in all assistance agreements, including the Loan Agreement, for the construction, alteration, maintenance, or repair of treatment works under the Clean Water State Revolving Fund and for the construction, alteration, maintenance, or repair of a public water system under the Drinking Water State Revolving Fund, a provision requiring the application of American Iron and Steel requirements for the entirety of the construction activities financed by the assistance agreement through completion of construction, no matter when construction commences. Whether or not the project has multiple sources of funding, the American Iron and Steel requirements apply to the entire project and not just to the activities funded by the money made available to WIFA by the federal government.

Section 1. **American Iron and Steel Requirements.** In accordance with federal law:

(a)(1) None of the funds made available to WIFA as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator") finds that—

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(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

Section 2. General Provisions.

(a) Binding Effect. This American Iron and Steel Addendum shall inure to the benefit of and shall be binding upon WIFA and the Local Borrower and their respective successors and assigns.

(b) Severability. In the event any provision of this American Iron and Steel Addendum shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(c) Amendments, Supplements and Modifications. This American Iron and Steel Addendum may not be amended, supplemented or modified without the prior written consent of WIFA and the Local Borrower.

(d) Execution in Counterparts. This American Iron and Steel Addendum may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) Applicable Law. This American Iron and Steel Addendum shall be governed by and construed in accordance with the laws of the State of Arizona and applicable federal law.

(f) Captions. The captions or headings in this American Iron and Steel Addendum are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions of this American Iron and Steel Addendum.

(g) Further Assurances. The Local Borrower shall, at the request of WIFA , authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this American Iron and Steel Addendum.

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(h) Prohibition Against Discrimination. In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Local Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(i) Arbitration. In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.

(j) Notice of Arizona Revised Statutes Section 38-511 - Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to this American Iron and Steel Addendum under the law of the State of Arizona.

[SIGNATURE PAGE FOLLOWS]

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WIFA and the Local Borrower are signing this American Iron and Steel Addendum to be effective as part of the Loan Agreement.

Water Infrastructure Finance Authority of Arizona

By: _____

Dan Dialessi, Executive Director

City of Flagstaff

By: _____

Rick Tadder, Management Services Director

[Signature page to American Iron and Steel Addendum to Loan Agreement]

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Exhibit A of Loan Agreement

Section 1: Financial Assistance Terms and Conditions
City of Flagstaff
TBD

Loan Number..... TBD

Closing Date..... TBD

First Payment Period..... 01/01/23

Financial Assistance Terms and Conditions

Original Loan Amount as of the Closing Date	$	20,000,000.00
Forgivable Principal Amount	$	1,000,000.00
Intended Repayment Amount	$	19,000,000.00
Loan Term		20
Combined Interest & Fee Rate		2.550%
Total # of Payment Periods within Loan Term		40

** Combined Interest and Fee Rate (CIFR) allocation: Fee = 1.5% (150 basis points); Interest = CIFR minus Fee.*

Principal Repayments

Period Principal Repayments Begin	4
First Principal Repayment Date	07/01/23
Final Principal Repayment Date	07/01/41

Combined Interest and Fee Payment Dates

First Combined Interest and Fee Payment Date*	01/01/23
Final Combined Interest and Fee Payment Date	07/01/41

* *Actual initial Combined Interest and Fee payment calculated only on dollar amount drawn against loan as of initial payment date*

Debt Service Reserve Fund Requirements

Total Reserve Amount	None
Annual Amount	None
Reserve Funded by (Date)	Not Applicable

Repair and Replacement Fund Requirement

Begin Funding on (Date)	Not Applicable
Annual Amount	None
Semi-Annual Deposit	None

Annual Payment

Years 1 through 5	$	1,274,189.64
Years 6 through 10	$	1,274,189.64
Years 11 through 15	$	1,274,189.64
Years 16 through 20	$	1,274,189.64

Section 2: Loan Repayment Schedule
City of Flagstaff
TBD

Year	Period	Semi-Annual Payment Dates	Combined Interest and Fee Rate	Semi-Annual Combined Interest and Fee Payment	Annual Principal Repayment	Total Annual Payment
1	1	01/01/22	2.550%	0.00		
1	2	07/01/22	2.550%	336,458.33	0.00	336,458.33
2	3	01/01/23	2.550%	242,250.00		
2	4	07/01/23	2.550%	242,250.00	789,689.64	1,274,189.64
3	5	01/01/24	2.550%	232,181.46		
3	6	07/01/24	2.550%	232,181.46	809,826.72	1,274,189.64
4	7	01/01/25	2.550%	221,856.17		
4	8	07/01/25	2.550%	221,856.17	830,477.30	1,274,189.64
5	9	01/01/26	2.550%	211,267.58		
5	10	07/01/26	2.550%	211,267.58	851,654.48	1,274,189.64
6	11	01/01/27	2.550%	200,408.99		
6	12	07/01/27	2.550%	200,408.99	873,371.66	1,274,189.64
7	13	01/01/28	2.550%	189,273.50		
7	14	07/01/28	2.550%	189,273.50	895,642.64	1,274,189.64
8	15	01/01/29	2.550%	177,854.06		
8	16	07/01/29	2.550%	177,854.06	918,481.52	1,274,189.64
9	17	01/01/30	2.550%	166,143.41		
9	18	07/01/30	2.550%	166,143.41	941,902.82	1,274,189.64
10	19	01/01/31	2.550%	154,134.15		
10	20	07/01/31	2.550%	154,134.15	965,921.34	1,274,189.64
11	21	01/01/32	2.550%	141,818.66		
11	22	07/01/32	2.550%	141,818.66	990,552.32	1,274,189.64
12	23	01/01/33	2.550%	129,189.12		
12	24	07/01/33	2.550%	129,189.12	1,015,811.40	1,274,189.64
13	25	01/01/34	2.550%	116,237.52		
13	26	07/01/34	2.550%	116,237.52	1,041,714.60	1,274,189.64
14	27	01/01/35	2.550%	102,955.66		
14	28	07/01/35	2.550%	102,955.66	1,068,278.32	1,274,189.64
15	29	01/01/36	2.550%	89,335.11		
15	30	07/01/36	2.550%	89,335.11	1,095,519.42	1,274,189.64
16	31	01/01/37	2.550%	75,367.23		
16	32	07/01/37	2.550%	75,367.23	1,123,455.18	1,274,189.64
17	33	01/01/38	2.550%	61,043.18		
17	34	07/01/38	2.550%	61,043.18	1,152,103.28	1,274,189.64
18	35	01/01/39	2.550%	46,353.87		
18	36	07/01/39	2.550%	46,353.87	1,181,481.90	1,274,189.64
19	37	01/01/40	2.550%	31,289.97		
19	38	07/01/40	2.550%	31,289.97	1,211,609.70	1,274,189.64
20	39	01/01/41	2.550%	15,841.95		
20	40	07/01/41	2.550%	15,841.95	1,242,505.76	1,274,189.66
				5,546,061.51	19,000,000.00	24,546,061.51

Exhibit B

Technical Terms and Conditions

Section 1
Budget

Uses by Budget Item	**Amount Budgeted**
Planning……..	$1,800,000.00
Design & Engineering…….	$132,823.00
Legal/Debt Authorization……	$40,000.00
Financial Advisor……	$50,000.00
Land/System Acquisition……	$2,900,000.00
Equipment/Materials……..	$0.00
Construction/Installation/Improvement……..	$15,077,177.00
Inspection & Construction Management…….	$0.00
Project Officer…….	$0.00
Administration…….	$0.00
Staff Training……..	$0.00
Capitalized Interest……..	$0.00
Refinance Loan……..…..	$0.00
Other……	$0.00
Total Budget……..	$20,000,000.00

Section 2
Project Description

The City is seeking to finance $20,000,000 for its stormwater capital improvements including Rio de Flag improvements with the Army Corps of Engineering. The City has paid a portion of the City's share of the cost and will be seeking loan funding for this payment as well as future costs incurred by the City for things such as property acquisitions, right-of-way purchases and additional City match for the project.

Section 3
Estimated Observation and Disbursement Schedule

Observation Schedule B:

Observation 1: Upon borrower notification of construction commencement

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Additional Observations: at least one site observation within each 12 month period

Final Observation: 80% construction budget disbursement

Additional Observations – A WIFA representative may perform additional observations based on information provided in the projects status reports included in each Local Borrower disbursement requisition form.

Withholding Percentage: 10% (released after deliverables received)

Section 4
Requirements Prior To Construction

Section 4.1 **Construction Bids.** The Local Borrower shall submit to the Authority for review and approval prior to execution:

(a) engineering contracts related to the Project,

(b) bid documents related to the Project,

(c) construction contracts related to the Project, and

(d) certification of positive effort for disadvantaged business enterprise participation.

Section 4.2 **User Charges**. The Local Borrower has established (or, if the System is not yet in operation, the Local Borrower will, at or before the time the System commences operation, establish) a system of user charges which, with other funds lawfully available, will at all times be sufficient to pay the costs of operation and maintenance of the System, including renewals and replacements of the System. The Local Borrower also agrees that such system of user charges will be established and maintained in compliance with any applicable requirements of state and federal law as long as the Local Borrower owes amounts under this Loan Agreement. The Local Borrower at its sole option may pay the costs of operation, maintenance, repair, replacement, extensions and additions to the System from any funds lawfully available to it for such purpose.

Section 4.3 **Interest in Project Site**. As a condition of the Loan, the Local Borrower will demonstrate to the satisfaction of the Authority that the Local Borrower has or will have a fee simple or such other estate or interest in the site of the Project, including necessary easements and rights-of-way, as the Authority finds sufficient to assure undisturbed use and possession for the purpose of construction and operation of the Project for the estimated life of the Project.

Section 4.4 **Federal Clean Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Clean Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

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Section 4.5 **Federal Safe Drinking Water Act**. The Local Borrower covenants that, to the extent legally applicable, the Project will meet the requirements of the Federal Safe Drinking Water Act in effect on the date of Loan Closing and any amendments thereto that may retroactively apply to the Loan, and the Local Borrower agrees that the Project will comply with applicable provisions of those federal laws and authorities listed in Article 9 of the Standard Terms and Conditions.

Section 4.6 **Signs**. The Local Borrower shall erect a construction sign displaying information on the Project and the funding sources. The Authority shall provide specifications for such construction signs.

Section 5
Requirements During Construction

Section 5.1 **Changes in Project Scope.** The Local Borrower shall submit to the Authority, for review and approval prior to execution, any change to the plans and specifications, construction contracts, Eligible Project Costs, or any other change which will effect the performance standards or purpose of the Project.

Section 5.2 **Completion of Project and Provision of Moneys Therefor**. The Local Borrower covenants and agrees (a) to exercise its best efforts in accordance with prudent utility construction practice to complete the Project and (b) to the extent permitted by law, to provide from its own fiscal resources all moneys, in excess of the total amount of loan proceeds it receives hereunder and under any subsequent loan from the Authority, required to complete the Project.

Section 5.3 **Inspections; Information**. The Local Borrower shall permit the Authority and any party designated by the Authority to examine, visit and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the Authority may reasonably require in connection therewith.

Section 5.4 **Adjustments for Ineligible Costs**. The Local Borrower shall promptly reimburse the Authority for any portion of the Loan which is determined to have been used for costs that are not eligible for funding under the Authority Act, the Federal Clean Water Act, as amended, or the Federal Safe Drinking Water Act, as amended, unless such matter is curable in some other manner by the Local Borrower to the satisfaction of the Authority. Such reimbursement shall be promptly repaid to the Authority upon written request of the Authority. Any such reimbursed principal amount will be applied to reduce the outstanding principal amount of the Loan.

Section 5.5 **Archaeological Artifacts**. In the event that archaeological artifacts or historical resources are discovered during construction excavation of the Project, the Local Borrower shall stop or cause to be stopped construction activities and will notify the State Historic Preservation Office and the Authority of such discovery.

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Section 6
Requirements Prior To Final Disbursements

Section 6.1 **Plan of Operation**. After construction is 50% complete and prior to the release of the withholding, the Local Borrower will submit to the Authority a plan of operation which provides a concise, sequential description of an implementation schedule for those activities necessary to assure efficient and reliable start-up and continual operation of the Project.

Section 6.2 **Final Approval**. Prior to the release of the withholding, the Local Borrower will submit to the Authority (a) as-built drawings by a professional engineer that document all changes from the original plans and specifications (b) copies of all testing results performed by or under the supervision of a professional engineer as required by the specifications, and (c) Arizona Department of Environmental Quality (ADEQ) approval of construction or an engineer's Certificate of Completion certifying that all construction was completed in accordance with the plans and specifications or that any changes made are in conformance with the Arizona Revised Statutes, ADEQ and Environmental Protection Agency rules, permits and guidelines and are documented in the as-built drawings. Based on a review of the information submitted, the Authority reserves the right, prior to the release of the withholding, to request modifications to the Project, the system, or the materials submitted pursuant to this section.

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Exhibit C

Reporting Requirements

Section 1. **Annual Loan Review**. The Authority's Annual Loan Review Form and annual financial statements in a format approved by the Authority, including the report of any annual audit(s) and all audit reports required by governmental auditing standards and any applicable Arizona rules, shall be provided by the Local Borrower to the Authority within one-hundred and eighty (180) days after the end of each fiscal year of the Local Borrower. The Local Borrower shall complete all audits and submit all reports required by the federal Single Audit Act within the time limits under that federal law, currently within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the federal agency that provided the funding or a different period is specified in a program-specific audit guide.

Section 2. **Records and Accounts**. The Local Borrower shall keep accurate records and accounts for the System, including records and accounts for the Project (the "*System Records*"), separate and distinct from its other records and accounts (the "*General Records*"). The Local Borrower must maintain the System Records in accordance with generally accepted accounting principles (GAAP), including standards relating to the reporting of infrastructure assets, as issued by the Governmental Accounting Standards Board (GASB) or by the Financial Accounting Standards Board (FASB), as applicable to the Local Borrower. If required by law, the Local Borrower must have the System Records audited annually by an independent accountant, which audit may be part of the annual audit of the General Records of the Local Borrower. The Local Borrower must make all System Records and General Records available for inspection by the Authority at any reasonable time.

Section 3. **Notice of Change In Key Personnel**. Promptly after becoming aware thereof, the Local Borrower shall provide notice in writing to the Authority of any change to the information in Section 1 of the Loan Agreement and any other change in key personnel connected to the Project and Loan.

Section 4. **Notice of Material Adverse Change**. The Local Borrower shall promptly notify the Authority of any material adverse change in the activities, prospects or condition (financial or otherwise), of the Local Borrower relating to the System, or in the ability of the Local Borrower to make all Loan Repayments from the Source of Repayment described in this Loan Agreement and otherwise to observe and perform its duties, covenants, obligations and agreements hereunder.

Section 5. **Disadvantaged Business Enterprise (DBE) Program.** The Local Borrower must report DBE participation to the Authority based on guidance from the Authority.

Section 6. **Notice of Default**. Promptly after becoming aware thereof, Local Borrower shall give notice to the Authority of (i) the occurrence of any Event of Default under the Loan Agreement or (ii) the occurrence of any breach, default, Event of Default, or event which with the giving of notice or lapse of time, or both, could become a material breach, default, or Event of Default (a "Future Breach") under any agreement, indenture, mortgage, or other instrument

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(other than the Loan Agreement) to which the Local Borrower is a party or by which it or any of its property is bound or affected. Local Borrower shall provide written notice to the Authority if the effect of such breach, default, Event of Default or Future Breach is to accelerate, or to permit the acceleration of, the maturity of any indebtedness under such agreement, indenture, mortgage, or other instrument; provided, however, that the failure of the Local Borrower to give such notice shall not affect the right and power of the Authority to exercise any and all of the remedies specified herein.

Section 7**.** **Notice of Construction Commencement**. The Local Borrower shall promptly notify the Authority immediately upon commencement of construction activities.

Section 8**.** **Notice of Non-Environmental Litigation**. Promptly after the commencement or overt threat thereof, Local Borrower shall provide the Authority with written notice of the commencement of all actions, suits, or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting Local Borrower which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 9. **Notice of Environmental Litigation**. Without limiting the provisions of Section 8 above, promptly after receipt thereof, Local Borrower shall provide the Authority with written notice of the receipt of all pleadings, orders, complaints, indictments, or other communication alleging a condition that may require Local Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claim personal injury to any person or property damage as a result of environmental factors or conditions or which, if adversely determined, could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or on the ability of Local Borrower to perform its obligations under the Loan Agreement.

Section 10. **Regulatory and Other Notices**. Promptly after receipt or submission thereof, Local Borrower shall provide the Authority with copies of any notices or other communications received from or directed to any governmental authority with respect to any matter or proceeding which could have a material adverse effect on the condition (financial or otherwise), operations, properties, or business of Local Borrower, or the ability of Local Borrower to perform its obligations under the Loan Agreement, or which reveals a substantial non compliance with any applicable law, regulation or rule.

Section 11. **Other Information**. The Local Borrower shall submit to the Authority other information regarding the condition (financial or otherwise), or operation of the Local Borrower as the Authority may, from time to time, reasonably request.

Section 12. **Additional Reporting Requirements.** The Local Borrower shall refer to the Loan Agreement Addendum for wage rate reporting requirements.

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Exhibit D Source of Repayment: System Revenues

Section 1 Certain Definitions

As used in this Loan Agreement, the following terms shall have the meanings set forth below unless the context clearly requires otherwise:

"Additional Parity Obligations" shall mean any additional obligations having a lien payable from Net Revenues of the System on a parity with the Loan Agreement which may hereafter be issued by the Local Borrower (or any financing conduit acting on behalf of the Local Borrower) in compliance with the terms in Section 3.

"Administrative Expenses" shall mean the reasonable cost or value of all services rendered by the Local Borrower and its various departments with respect to the System.

"Fund" shall mean the fund or funds into which the Local Borrower shall deposit the Revenues of the System.

"Net Revenues" shall mean that portion of the Revenues remaining after deducting sufficient funds for the Operation and Maintenance Expenses of the System.

"Operation and Maintenance Expenses" shall mean all costs reasonably incurred in connection with the operation, use and maintenance of the System, including (i) repairs necessary to keep the System in efficient and economical operating condition, (ii) the payments of premiums for insurance hereinafter required to be carried on the System, (iii) payments of reasonable Administrative Expenses and (iv) generally all expenses of the System except depreciation, interest expense related to the Loan Agreement, any Outstanding Parity Obligations, any Additional Parity Obligations, and interest expenses on any obligations subordinate to such obligations.

"Outstanding Parity Obligations" shall mean obligations issued and outstanding having a lien payable from Net Revenues of the System on a parity with the Loan Agreement.

"Revenues" shall mean and include all income, moneys and receipts to be received by the Local Borrower, directly or indirectly, from the ownership, use or operation of the System including any waste material or by-products of the System, and also including investment income.

Section 2 Source of Repayment and Rate Covenant Provisions

1. It is understood and agreed that all payments with respect to the Loan shall be made only from the Source of Repayment, which is hereby pledged to the payment of all amounts due under the Loan. The "Source of Repayment" is the Net Revenues of the System as hereinafter provided. The Net Revenues are hereby pledged by the Local Borrower to the payment of all amounts due under the Loan and the repayment of such amounts shall be secured by a lien on and pledge of the Net Revenues on parity with the pledge and lien granted by the Local Borrower for the payment and security of Outstanding Parity Obligations and Additional Parity

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Obligations. The amounts due under this Loan Agreement and any Outstanding Parity Obligations and Additional Parity Obligations (exclusive of the Local Borrower's repayment obligations with respect to those reserve fund credit instruments in connection with this Loan and any Additional Parity Obligations which shall be secured on a subordinate basis), shall be equally and ratably secured by said pledge and lien without one having priority over the other. The Local Borrower intends that this pledge shall be a prior and paramount lien on and a first pledge of the Net Revenues, as will be sufficient to make all payments on the Loan, and the Local Borrower covenants to make the payments under the Loan from the Net Revenues, except to the extent that it chooses to make such payments from other legally available funds at its sole option. In no event shall the Local Borrower be required to make the payments on the Loan from any revenues, receipts or sources not derived from the Net Revenues of the System.

2. The Local Borrower covenants and agrees that it will establish and maintain schedules of rates, fees and charges for all services supplied by the System which, after making reasonable allowance for contingencies and errors in estimates, shall produce Revenues in each fiscal year that are sufficient, (a) to pay the Operation and Maintenance Expenses of the System, (b) to produce an aggregate amount of Net Revenues equal the sum of (i) one hundred twenty percent (120%) of the aggregate of the debt service or comparable payments payable on the Loan, the Outstanding Parity Obligations, and any Additional Parity Obligations in such fiscal year, and (ii) one hundred percent (100%) of the aggregate of the debt service on comparable payments, separately payable and secured on a basis subordinate to the Loan by Net Revenues, and (c) to maintain all necessary fund balances required under the resolutions or agreements of the Local Borrower authorizing the Loan, the Outstanding Parity Obligations, and Additional Parity Obligations.

Section 3 Additional Parity Obligations

The Local Borrower covenants and agrees that no other obligations of any kind will be issued that are payable from or enjoy a pledge of the Net Revenues having priority over the Loan.

It is understood and agreed that Additional Parity Obligations having a lien upon and payable from the Net Revenues may be issued on parity with the Loan, but only as provided herein and only to provide funds to make improvements and expansions to the existing System, to purchase capacity rights in sewage treatment plant facilities owned by other political subdivisions of the State, to purchase capacity rights in water treatment plant facilities owned by other political subdivisions of the State, to acquire land, rights in land or water rights for the System, to provide reasonable reserves for Outstanding Parity Obligations and Additional Parity Obligations, to refund Outstanding Parity Obligations and Additional Parity Obligations or the Loan or to refund other bonds of the Local Borrower, if any, whether revenue bonds, general obligation bonds or other bonds or obligations, issued to provide funds to construct or acquire additions, extensions, improvements, expansions or replacements to the System, subject to the following conditions:

(a) The Local Borrower will not, at the time of the issuance of such Additional Parity Obligations, be in default under any Outstanding Parity Obligations, Additional Parity Obligations, the Loan or under any resolution related thereto or providing for the issuance of Additional Parity Obligations or any related credit or reserve fund credit instrument;

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(b) The issuance of Additional Parity Obligations will be duly authorized at an election, if required by law, except as to any bonds or obligations to be issued exclusively for the purpose of refunding any Outstanding Parity Obligations and Additional Parity Obligations or the Loan;

(c) The issuance of Additional Parity Obligations will be provided for by a resolution duly adopted by the Local Borrower's governing body and such Additional Parity Obligations will mature and interest will be paid on the same days of the year as Outstanding Parity Obligations and Additional Parity Obligations; and

(d) The Reserve Requirement (as defined in Exhibit E), as computed for the amount of Additional Parity Obligations to be issued, shall be available in the Reserve Fund (as defined in Exhibit E) in one of the following ways: (i) Additional Parity Obligation proceeds shall be immediately deposited to the Reserve Fund, or a separate account as may be required, in an amount equal to the increased Reserve Requirement, if any, for the Additional Parity Obligations, or a Reserve Fund surety acceptable to the Authority shall be purchased in such amount; or (ii) Additional Parity Obligations, or any other revenues of the Local Borrower lawfully available to be used for such deposit, may be deposited to the Reserve Fund in equal monthly deposits such that the Reserve Requirement for such Additional Parity Obligations shall be satisfied not more than four years from the date of delivery of such Additional Parity Obligations; or (iii) any combination of (i) and (ii). The Reserve Fund may be divided into separate and discrete subaccounts each pledged to different Additional Parity Obligations provided that each Additional Parity Obligation Reserve Requirement is satisfied in one of the foregoing manners; and

(e) the aggregate amount of the Net Revenues of the System for the last full fiscal year immediately preceding the issuance of such Additional Parity Obligation, as shown in a certificate or report of an independent public accountant or firm of such accountants presented to the Authority, has been at least equal to the sum of the following: (i) not less than one hundred twenty percent (120%) of the highest year's debt service or comparable payments on all of the Outstanding Parity Obligations, the Loan, and the Additional Parity Obligations then to be issued, and (ii) not less than one hundred percent (100%) of the aggregate of amounts payable in such fiscal year and secured on a subordinate basis by such Net Revenues and (iii) not less than one hundred percent (100%) of any additional amounts required to maintain or fund necessary fund balances under the resolutions or agreements of the Local Borrower relating to the obligations described in (i).

For the purposes of the subparagraph (e), additional amounts may be added to the Net Revenues as shown on the accountant's certificate or report in the following circumstances:

(1) If the Revenues have been increased as a result of construction of additions or acquisitions to the System made prior to the issuance of such Additional Parity Obligations but during either the fiscal year in which the Additional Parity Obligations are to be issued or in the preceding fiscal year, such increased Revenues may be treated as if such additions to the System were completed on the first day of the fiscal year used for purposes of computation. The Revenues derived from such additions and acquisitions to the System may

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be converted for purposes of computation to estimated Net Revenues which would have been derived therefrom if said additions and acquisitions had actually been completed on the first day of the year used for computation purposes, such estimates to be made by a professional firm experienced in estimating future revenues and expenses of water and sewer systems and having a recognized reputation for that work.

(2) If all or part of the proceeds of the Additional Parity Obligations are to be expended for the acquisition of existing water properties or facilities, there may be added to the Net Revenues of such preceding fiscal year the Net Revenues which would have been derived from the operation of such properties or facilities if such properties or facilities had been acquired and operated by the Local Borrower under the Local Borrower's applicable rate schedule during the entire preceding fiscal year, such Net Revenues to be estimated by a professional firm experienced in estimating future revenues and expenses of water and sewer systems and having a recognized reputation for that work.

(3) If prior to the issuance of the Additional Parity Obligations and subsequent to the first day of such preceding fiscal year, the Local Borrower shall have increased its rates or charges imposed for water services, there may be added to the Net Revenues of such fiscal year the additional Net Revenues which would have been received from the operation of the System during such fiscal year had such increase been in effect throughout such fiscal year, such additional Net Revenues to be estimated by a professional firm experienced in estimating future revenues and expenses of water and sewer systems and having a recognized reputation for that work.

For purposes of calculations under this subparagraph (e), if Additional Parity Obligations are to be issued exclusively for the purpose of refunding or retiring a portion of Outstanding Parity Obligations or this Loan, for the purpose of the calculation required under this subparagraph (e), the percentage requirement on such obligations will be taken into consideration only in any future fiscal year in which any fractional part of such obligations will remain outstanding after the issuance of such Additional Parity Obligations; provided that nothing herein contained shall be construed to limit or restrict the issuance of any Additional Parity Obligations if, before or as a result of the issuance and delivery of such Additional Parity Obligations, any other obligations theretofore issued will no longer be outstanding, or full payment for any such obligations will be provided for by funds from the bond or obligation proceeds.

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Exhibit E Debt Service Reserve Requirement

No Debt Service Reserve Required

The Local Borrower shall not be required to either (i) provide a Reserve Fund Surety or (ii) fund a Reserve Fund in cash in connection with this Agreement.

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Exhibit F Replacement Reserve Requirements

No Replacement Reserve Required

The Local Borrower shall not be required to maintain a Replacement Reserve in connection with the Loan.

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Exhibit G Form of Opinion of Local Borrower Counsel

Enter Date of Opinion

Water Infrastructure Finance Authority of Arizona
Phoenix, Arizona

Ladies and Gentlemen:

I am an attorney admitted to practice in the State of Arizona and I have acted as counsel to the City of Flagstaff (the "*Local Borrower*"), which has entered into a Loan Agreement (as hereinafter defined) with the Water Infrastructure Finance Authority of Arizona (the "*Authority*"), and have acted as such in connection with the authorization, execution and delivery by the Local Borrower of the Loan Agreement (as hereinafter defined). Terms used and not otherwise defined herein have the meanings given to them in the Loan Agreement.

In so acting I have examined the Constitution and laws of the State of Arizona. I have also examined originals, or copies certified or otherwise identified to my satisfaction, of the following:

(a) the Loan Agreement, dated as of TBD (the "*Loan Agreement*") by and between the Authority and the Local Borrower; and

(b) proceedings of the governing board of the Local Borrower relating to the approval of the Loan Agreement and the Local Borrower Bond and the execution, issuance and delivery thereof on behalf of the Local Borrower, and the authorization of the undertaking and completion of the Project, including the proceedings relating to the election held on Enter Election Date on the question of authorizing the Local Borrower to enter into loan agreements with the Authority and/or issue the Local Borrower Bond, of which there is authorized but unissued capacity at least equal to the principal amount of the Loan.

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion that:

1. The Local Borrower is a political subdivison of the State of Arizona with the legal right to carry on the business of the System as currently being conducted and as proposed to be conducted.

2. The Local Borrower has full legal right and authority to pledge the Source of Repayment for the Loan Repayments and to execute and deliver the Loan Agreement, and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project; subject, however, to the effect of restrictions and limitations imposed by or

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resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors rights generally ("*Creditor's Rights Limitations*") heretofore or hereafter enacted.

3. The Local Borrower has duly and validly pledged the Source of Repayment for the punctual payment of the principal of and interest on the Loan and all other amounts due under the Loan Agreement and the Local Borrower Bond according to their respective terms.

4. All additional debt tests and reserve and other requirements applicable to the Local Borrower with respect to the pledge of the Source of Repayment have been satisfied.

5. The authorizing proceedings of the Local Borrower's governing body approving the Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Local Borrower, and authorizing the Local Borrower to undertake and complete the Project (hereinafter collectively called the "*Authorizing Resolutions*") have been duly and lawfully adopted and authorized in accordance with applicable Arizona law, at a meeting or meetings which were duly called pursuant to necessary public notice and held in accordance with applicable Arizona law, and at which quorums were present and acting throughout.

6. The Loan Agreement has been duly authorized, executed and delivered by the authorized officers of the Local Borrower; and, assuming that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered the Loan Agreement, the Loan Agreement constitutes the legal, valid and binding obligation of the Local Borrower enforceable in accordance with its terms; subject, however, to the effect of and to restrictions and limitations imposed by or resulting from Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual obligations generally.

7. To the best of my knowledge, after such investigation as I have deemed appropriate, the authorization, execution and delivery of the Loan Agreement by the Local Borrower, the observance and performance by the Local Borrower of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Local Borrower or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Local Borrower is a party or by which it, the System or its property or assets is bound.

8. To the best of my knowledge, after such investigation as I have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Local Borrower in connection with the authorization, execution, delivery and performance of the Loan Agreement, and the undertaking and completion of the Project have been obtained or made.

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9. To the best of my knowledge, after such investigation as I have deemed appropriate, there is no litigation or other proceeding pending or threatened in any Court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Local Borrower or the validity, legality or enforceability of the Loan Agreement, or the undertaking or completion of the Project.

This opinion is rendered on the basis of Federal law and the laws of the State of Arizona as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the numbered paragraphs herein.

Very truly yours,

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Exhibit H Form of Tax Compliance Certificate of Local Borrower

Water Infrastructure Finance Authority of Arizona

$20,000,000.00 Loan to City of Flagstaff

The Water Infrastructure Finance Authority of Arizona (the "Authority") and City of Flagstaff (the "Local Borrower") are entering into a Loan Agreement (the "Loan Agreement") in the maximum principal amount stated above pursuant to which the Authority will make a loan (the "Loan") to the Local Borrower. In connection with its state revolving fund programs, the Authority issues its bonds ("Authority Bonds") from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be a Tax-Exempt Obligation that is not an AMT Obligation. Therefore, in order to establish certain facts necessary for the Loan to qualify and be treated as a Tax-Exempt Obligation that is not an AMT Obligation, and as required by the provisions of the Loan Agreement, the Local Borrower by its officer signing this Certificate, certifies, represents, and covenants as follows with respect to the Loan. All statements in this Certificate are of facts or, as to events to occur in the future, reasonable expectations.

I. DEFINITIONS

1.10. Attachment A. The definitions and cross-references set forth in Attachment A apply to this Certificate and its Attachments. All terms relating to a particular issue, such as Sale Proceeds, relate to the Loan, unless indicated otherwise. (For example, "Sale Proceeds" refers to Sale Proceeds of the Loan, unless indicated otherwise.)

1.20. Special Definitions. Terms used herein, to the extent not defined in Attachment A or below, have the same meaning as defined in the Loan Agreement. In addition, the following definitions apply to this Certificate and its Attachments:

"Instructions" means the Rebate Instructions attached hereto as Attachment A-1.

"Issue" means the Loan.

"Issuer" means the Local Borrower.

"Project" means the financing of a portion of the costs of acquisition, construction and improvement of facilities to be financed by the Loan and includes Issuance Costs and interest on the Loan for up to three years from the Issuance Date or, if later, one year after the date the Project is placed in service, all of which are governmental purposes for purposes of the Code.

"Reserve Fund" is defined in 3.40(a).

1.30. References. Reference to a Section means a section of the Code. Reference by number only (for example, "2.10") means that numbered paragraph of this Certificate. Reference to an Attachment means an attachment to this Certificate.

II. ISSUE DATA

2.10. Issuer. The Issuer is a Governmental Unit.

2.20. Purpose of Issue. The Issue is being issued to provide funds to pay costs of the Project.

2.30. Dates. The Sale Date of the Issue is the date on which the Loan Agreement is executed and delivered by the Authority and the Local Borrower, and the Issuance Date of the Issue is the first date on which the aggregate draws under the Loan exceed the lesser of $50,000 or 5% of the principal amount of the Loan.

2.40. Issue Price. The Issue Price of the Issue is the principal amount actually advanced by the Authority to the Issuer as the Loan.

2.50. Sale Proceeds, Net Proceeds, and Net Sale Proceeds. The amount of Sale Proceeds equals the Issue Price. The amount of Net Proceeds equals the Issue Price minus the amount of Proceeds (if any) deposited in the Reserve Fund (if any). The amount of Net Sale Proceeds equals the amount of Net Proceeds minus the Minor Portion.

2.60. Disposition of Sale Proceeds. There will be no Pre-Issuance Accrued Interest with respect to the Issue. The Sale Proceeds will be used to pay costs of the Project and, if applicable, to fund the Reserve Fund (if any).

2.70. Higher Yielding Investments. Gross Proceeds will not be invested in Higher Yielding Investments except for (A) the Minor Portion to the extent provided in 3.80, (B) those Gross Proceeds identified in 3.10, 3.20, and 3.30, but only during the applicable Temporary Periods there described for those Gross Proceeds, and (C) Gross Proceeds held in the Reserve Fund (if any) to the extent set forth in 3.40(a).

2.80. Single Issue. No other obligations have been or will be sold less than 15 days before or after the Sale Date pursuant to the same plan of financing with the Issue that are expected to be paid from substantially the same source of funds as the Issue, determined without regard to guarantees from a person who is not a Related Party to the Issuer. Accordingly, no obligations other than those of the Issue are a part of a single issue with the Issue.

III. ARBITRAGE (NONREBATE) MATTERS

3.10. Use of Net Sale Proceeds and Pre-Issuance Accrued Interest; Temporary Periods.

(A) Pre-Issuance Accrued Interest. There will be no Pre-Issuance Accrued Interest with respect to the Issue.

(B) Payment of Costs of the Project.

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(1) All of the Net Sale Proceeds will be used to pay costs of the Project. Such Sale Proceeds may be used to acquire or hold Higher Yielding Investments for a period ending on the third anniversary of the Issuance Date (such period being the Temporary Period for such amount) because the following three tests are reasonably expected to be satisfied:

(i) At least 85% of the Net Sale Proceeds will be allocated to expenditures on the Project by the end of the Temporary Period;

(ii) Within 6 months of the Issuance Date, the Issuer will incur substantial binding obligations to third parties to expend at least 5% of the Net Sale Proceeds on the Project; and

(iii) Completion of the Project and allocation of the Net Sale Proceeds to expenditures will proceed with due diligence.

Any Sale Proceeds that remain unspent on the third anniversary of the Issuance Date, which is the expiration date of the Temporary Period for such Proceeds, shall not be invested in Higher Yielding Investments with respect to the Issue after that date except as part of the Minor Portion. In complying with the foregoing sentence, the Issuer may take into account "yield reduction payments" (within the meaning of Regulations §1.148-5(c)) paid to the United States.

(2) Any Reimbursement Allocation will qualify as a Reimbursement of Prior Capital Expenditures and will be made by an entry in the financial records of the Issuer kept with respect to the Issue showing that Sale Proceeds of the Issue have been returned to the fund or account of the Issuer from which such amount was originally and temporarily advanced to finance Capital Expenditures paid before this date by not more than (A) 18 months after the later of the date such Capital Expenditures were paid or the date on which the property resulting from such Capital Expenditures and comprising part of the Project was placed in service or (B) three years after the original expenditures were paid.

3.20. Investment Proceeds. Any Investment Proceeds will be used to pay costs of the Project and may be invested in Higher Yielding Investments during the Temporary Period identified in 3.10(B)(1) or, if longer, one year from the date of receipt, such period being the Temporary Period for such Proceeds.

3.30. Payment Fund. Amounts deposited from time to time in the fund of the Issuer from which payments will be made on the Issue, which is a Bona Fide Debt Service Fund, will be used to pay Debt Service on the Issue within 13 months after the amounts are so deposited, such period being the Temporary Period for such amounts.

3.40. Reserve Funds.

(A) Debt Service Reserve Fund. If (and only if) the Loan Agreement requires the funding of a debt service reserve fund ("Reserve Fund") in cash: The amount of Proceeds of the Loan deposited in the Reserve Fund shall not exceed

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10% of the stated principal amount of the Loan. Amounts in the portion of the Reserve Fund allocable to the Issue may be invested in Higher Yielding Investments with respect to the Issue to the extent that such amounts do not exceed the least of (i) 10% of the principal amount of the Issue; (ii) maximum annual Debt Service; and (iii) 125% of average annual Debt Service. Any amounts in the portion of the Reserve Fund allocable to the Issue in excess of the least of these amounts will not be invested in Higher Yielding Investments with respect to the Issue. In complying with the yield restriction set forth in this Section, the Issuer may take into account "yield reduction payments" (within the meaning of Regulations § 1.148-5(c)) timely paid or to be timely paid to the United States because amounts in the Reserve Fund (other than investment earnings) are not reasonably expected to be used to pay Debt Service other than in connection with reductions in the amount required to be in the Reserve Account. The establishing and funding of the Reserve Fund was reasonably required by the Authority as a condition of making the Loan.

(B) Replacement Reserve Fund. If (and only if) the Loan Agreement requires the funding of a replacement reserve fund ("Replacement Reserve Fund") in cash: The Replacement Reserve Fund may be used for one or more of the following purposes: (i) the acquisition of new, or the replacement of obsolete or worn out, machinery, equipment, furniture, fixtures or other personal property for the Issuer's utility system, provided that the property is depreciable; (ii) the performance of repairs with respect to the Issuer's utility system that are of an extraordinary and non-recurring nature, provided that the property is depreciable; (iii) the acquisition or construction of additions to or improvements, extensions or enlargements to, or remodeling of, the Issuer's utility system, provided that the property is depreciable; and/or (iv) to make Debt Service payments to the Authority on the Issue (collectively, the "Permitted Uses"). The Issuer reasonably expects to use amounts in the Replacement Reserve Fund for Permitted Uses other than to make Debt Service payments to the Authority on the Issue, and therefore there is no reasonable assurance of the availability of those amounts to make Debt Service payments to the Authority on the Issue if the Issuer encounters financial difficulties

3.50. No Other Replacement Fund or Assured Available Funds. Except as described in 3.30 and, if and to the extent applicable, 3.40(A), , the Issuer has not established and does not expect to establish or use any sinking fund, debt service fund, redemption fund, reserve or replacement fund, or similar fund, or any other fund to pay Debt Service on the Issue. Except for money referred to in 3.30 and Proceeds of a Refunding Issue, if any, no other money or Investment Property is or will be pledged as collateral or used for the payment of Debt Service on the Issue (or for the reimbursement of any others who may provide money to pay that Debt Service), or is or will be restricted, dedicated, encumbered, or set aside in any way as to afford the holders of the Issue reasonable assurance of the availability of such money or Investment Property to pay Debt Service on the Issue.

3.60. No Overissuance. The Proceeds of the Issue are not reasonably expected to exceed the amount needed for the governmental purposes of the Issue as set forth in 2.20.

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3.70. Other Uses of Proceeds Negated. Except as stated otherwise in this Certificate, none of the Proceeds of the Issue will be used:

(A) to pay principal of or interest on, refund, renew, roll over, retire, or replace any other obligations issued by or on behalf of the Issuer or any other Governmental Unit,

(B) to replace any Proceeds of another issue that were not expended on the project for which such other issue was issued,

(C) to replace any money that was or will be used directly or indirectly to acquire Higher Yielding Investments,

(D) to make a loan to any person or other Governmental Unit,

(E) to pay any Working Capital Expenditure other than expenditures identified in Regulations §1.148-6(d)(3)(ii)(A) and (B) (i.e., Issuance Costs of the Issue, Qualified Administrative Costs, reasonable charges for a Qualified Guarantee or for a Qualified Hedge, interest on the Issue for a period commencing on the Issuance Date of the Issue and ending on the date that is the later of three years from such Issuance Date or one year after the date on which the project financed or refinanced by the Issue was or will be placed in service, payments of the Rebate Amount, and costs, other than those already described, that do not exceed 5% of the Sale Proceeds and that are directly related to Capital Expenditures financed or deemed financed by the Issue, principal or interest on an issue paid from unexpected excess Sale Proceeds or Investment Proceeds, and principal or interest on an issue paid from investment earnings on a reserve or replacement fund that are deposited in a Bona Fide Debt Service Fund), or

(F) to reimburse any expenditures made prior to the Issuance Date except those that qualify as a Reimbursement of Prior Capital Expenditures.

No portion of the Issue is being issued solely for the purpose of investing Proceeds in Higher Yielding Investments.

3.80. Minor Portion. The Minor Portion is equal to the lesser of 5% of the Sale Proceeds of the Issue and $100,000. Such Minor Portion may be invested in Higher Yielding Investments with respect to the Issue.

3.90. No Other Replacement Proceeds. That portion of the Issue that is to be used to finance Capital Expenditures has a weighted average maturity that does not exceed 120% of the weighted average reasonably expected economic life of the property resulting from such Capital Expenditures.

IV. REBATE MATTERS

4.10. Issuer Obligation Regarding Rebate. Consistently with its covenants contained in the Loan Agreement, the Issuer will calculate and make, or cause to be calculated and made,

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payments of the Rebate Amount in the amounts and at the times and in the manner provided in Section 148(f) with respect to Gross Proceeds to the extent not exempted under Section 148(f)(4) and the Instructions.

4.20. No Avoidance of Rebate Amount. No amounts that are required to be paid to the United States will be used to make any payment to a party other than the United States through a transaction or a series of transactions that reduces the amount earned on any Investment Property or that results in a smaller profit or a larger loss on any Investment Property than would have resulted in an arm's length transaction in which the Yield on the Issue was not relevant to either party to the transaction.

4.30. Exceptions.

(A) Small Issuer Exception. The Issue is exempt under Section 148(f)(4)(D) from the rebate requirement **if all** of the following requirements are satisfied:

(1) The Issuer is a Governmental Unit with general taxing powers within the meaning of Section 148(f)(4)(D), and

(2) No part of the Issue is a Private Activity Bond, and

(3) All of the Net Proceeds will be used for "local governmental activities" of the Issuer within the meaning of Section 148(f)(4)(D) and none of the Net Proceeds will be used for any Private Business Use, and

(4) The aggregate principal amount of all Tax-Exempt Obligations, including the Issue, issued or to be issued by the Issuer, its subordinate entities and entities that issue any such obligations on behalf of the Issuer, or on behalf of which the Issuer issues any such obligations, during the current calendar year does not, and is not reasonably expected to, exceed $5,000,000. The Tax-Exempt Obligations taken into account for this purpose exclude any Private Activity Bonds and any Current Refunding Portion and Current Refunding Issue to the extent that the amount of such Current Refunding Portion or Current Refunding Issue does not exceed the outstanding amount of the obligations refunded by such Current Refunding Portion or Current Refunding Issue. No entity has been or will be formed or availed of to avoid the purposes of Section 148(f)(4)(D)(i)(IV).

If, but only if, all of the above requirements are satisfied, check here: [____]

and sign here: _____

(B) General Exception. Notwithstanding the foregoing, the computations and payments of amounts to the United States referred to in IV need not be made to the extent that the Issuer will not thereby fail to comply with any requirements of Section 148(f) and the Instructions based on an opinion of bond counsel.

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4.40. Election. The Issue is a Construction Issue. The Issuer hereby elects to apply the 2-year spending exception to the rebate requirements on the basis of actual facts instead of the Issuer's reasonable expectations.

V. OTHER TAX MATTERS

5.10. Not Private Activity Bonds or Pool Bonds. No obligation of the Issue will be a Private Activity Bond or a pooled financing bond (within the meaning of Section 149(f)), based on the following:

(A) Not more than 5% of the Proceeds, if any, directly or indirectly, will be used for a Private Business Use and not more than 5%, if any, of the Debt Service on the Issue, directly or indirectly, will be secured by any interest in property used or to be used for a Private Business Use or payments in respect of such property, or will be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a Private Business Use.

(B) Less than 5% of the Proceeds, if any, will be used to make or finance loans to any Private Person or Governmental Unit other than the Issuer.

(C) The lesser of the Proceeds that are being or will be used for any Private Business Use or the Proceeds with respect to which there are payments or (borrowed money) that are being or will be used for any Private Business Use does not exceed $15,000,000 and none of the Proceeds will be used with respect to an "output facility" (other than a facility for the furnishing of water) within the meaning of Section 141(b)(4).

(D) The Issuer does not expect to sell or otherwise dispose of the Project or any portion thereof during the term of the Issue except for dispositions of property in the normal course at the end of such property's useful life to the Issuer. With respect to tangible personal property, if any, that is part of the Project, the Issuer reasonably expects that:

(1) Dispositions of such tangible personal property, if any, will be in the ordinary course of an established governmental program;

(2) The weighted average maturity of the obligations of the Issue financing such property (treating the obligations of the Issue properly allocable to such personal property as a separate issue for this purpose) will not be greater than 120% of the reasonably expected actual use of such property for governmental purposes;

(3) The fair market value of such property on the date of disposition will not be greater than 25% of its cost;

(4) The property will no longer be suitable for its governmental purposes on the date of disposition; and

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(5) The amounts received from any disposition of such property are required to be, and will be, commingled with substantial tax or other governmental revenues and will be spent on governmental programs within 6 months from the date of such deposit and commingling.

5.20. Issue Not Federally Guaranteed. The Issue is not Federally Guaranteed.

5.30. Not Hedge Bonds. At least 85% of the Spendable Proceeds will be used to carry out the governmental purposes of the Issue within three years from the Issuance Date. Not more than 50%, if any, of the Proceeds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more (including but not limited to any investment contract or fixed yield investment having a maturity of four years or more). The reasonable expectations stated above are not based on and do not take into account (A) any expectations or assumptions as to the occurrence of changes in market interest rates or changes of federal tax law or regulations or rulings thereunder or (B) any prepayments of items other than items that are customarily prepaid.

5.40. Hedge Contracts. The Issuer has not entered into, and does not reasonably expect to enter into, any Hedge with respect to the Issue, or any portion thereof. The Issuer acknowledges that entering into a Hedge with respect to the Issue, or any portion thereof, may change the Yield and that Bond Counsel should be contacted prior to entering into any Hedge with respect to the Issue in order to determine whether payments/receipts pursuant to the Hedge will be taken into account in computing the Yield.

5.50. Internal Revenue Service Information Return. Within the time and on the form prescribed by the Internal Revenue Service under Section 149(e), the Issuer will file with the Internal Revenue Service an Information Return setting forth the required information relating to the Issue. The information reported on that Information Return will be true, correct, and complete to the best of the knowledge and belief of the undersigned.

5.60. Responsibility of Officer.

(A) The officer signing this Certificate is one of the officers of the Issuer responsible for issuing the Issue.

(B) To the best of the knowledge, information, and belief of the undersigned, all expectations stated in this Certificate are the expectations of the Issuer and are reasonable, all facts stated are true, and there are no other existing facts, estimates, or circumstances that would or could materially change the statements made in this Certificate. The certifications and representations made in this Certificate are intended to be relied upon as certifications described in Regulations § 1.148-2(b). The Issuer acknowledges that any change in the facts or expectations from those set forth in this Certificate may result in different requirements or a change in status of the Issue or interest thereon under the Code, and that bond counsel should be contacted if such changes are to occur or have occurred.

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City of Flagstaff

By:_____

Name:_____

Title:_____

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List of Attachments

Attachment A -- Definitions for Tax Compliance Certificate

Attachment A-1 -- Rebate Instructions

Attachment A

Definitions for Tax Compliance Certificate of Local Borrower

The following terms, as used in Attachment A and in the Tax Compliance Certificate to which it is attached and in the other Attachments to the Tax Compliance Certificate, have the following meanings unless therein otherwise defined or unless a different meaning is indicated by the context in which the term is used. Capitalized terms used within these definitions that are not defined in Attachment A have the meanings ascribed to them in the Tax Compliance Certificate to which this Attachment A is attached. The word "Issue," in lower case, refers either to the Issue or to another issue of obligations or portion thereof treated as a separate issue for the applicable purposes of Section 148, as the context requires. The word "obligation" or "obligations," in lower case, includes any obligation, whether in the form of bonds, notes, certificates, or any other obligation that is a "bond" within the meaning of Section 150(a)(1). All capitalized terms used in this Certificate include either the singular or the plural. All terms used in this Attachment A or in the Tax Compliance Certificate to which this Attachment A is attached, including terms specifically defined, shall be interpreted in a manner consistent with Sections 103 and 141-150 and the applicable Regulations thereunder except as otherwise specified. All references to Section, unless otherwise noted, refer to the Code.

"Advance Refunding Issue" means any Refunding Issue that is not a Current Refunding Issue.

"Advance Refunding Portion" means that portion of a Multipurpose Issue that constitutes a separate governmental purpose and that would be treated as an Advance Refunding Issue if it had been issued as a separate issue.

"AMT Obligation" means a Tax-Exempt Obligation the interest on which is an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code.

"Available Construction Proceeds" means an amount equal to (a) the sum of (i) the Issue Price of an issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocable to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocable to the underwriter's discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocable to the issue. "Available Construction Proceeds" does not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocable to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the project financed by the issue is substantially completed, provided, however, that such Investment Proceeds or earnings shall be excluded from "Available Construction Proceeds" if the Issuer has timely elected such exclusion. If an issue is a Multipurpose Issue that includes a New Money Portion that is a Construction Issue, this definition shall be applied by substituting "New Money Portion" for "issue" each place the latter term appears. If an issue or the New Money Portion of a Multipurpose Issue, as applicable, is

not a Construction Issue, and the Issuer makes the bifurcation election under Regulations §1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting "Construction Portion" for "issue" each place the latter term appears.

"Bona Fide Debt Service Fund" means a fund, including a portion of or an account in that fund (or in the case of a fund established for two or more issues, the portion of that fund properly allocable to an issue), or a combination of such funds, accounts or portions that is used primarily to achieve a proper matching of revenues with Debt Service on an issue within each Bond Year and that is depleted at least once each year except for a reasonable carryover amount not to exceed the greater of the earnings thereon for the immediately preceding Bond Year or one-twelfth of the annual Debt Service on the issue for the immediately preceding Bond Year.

"Bond Year" means the annual period relevant to the application of Section 148(f) to an issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of an issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

"Capital Expenditures" means costs of a type that are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of Placed in Service) under general federal income tax principles.

"Code" means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"Commingled Fund" means any fund or account of the Issuer that contains both Gross Proceeds of an issue and amounts in excess of $25,000 that are not Gross Proceeds of the issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account.

"Commingled Investment Proceeds" means Investment Proceeds of an issue (other than Investment Proceeds held in a Refunding Escrow) that are deposited in a Commingled Fund with substantial tax or other revenues from governmental operations of the Issuer and that are reasonably expected to be spent for governmental purposes within 6 months from the date of deposit in the Commingled Fund, using any reasonable accounting assumptions.

"Conduit Borrower" means the obligor on a purpose investment.

"Conduit Financing Issue" means an issue the Proceeds of which are reasonably expected to be used to finance one or more Conduit Loans.

"Conduit Loan" means a purpose investment acquired by the Issuer with Proceeds of a Conduit Financing Issue, thereby effecting a loan to the Conduit Borrower.

"Construction Expenditures" means Capital Expenditures allocable to the cost of real property (including the construction or making of improvements to real property, but excluding acquisitions of interests in land or other existing real property) or constructed personal property within the meaning of Regulations §1.148-7(g).

"Construction Issue" means an issue at least 75% of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property that is, or upon completion will be, owned by a Governmental Unit or a 501(c)(3) Organization. If an issue is a Multipurpose Issue that includes a New Money Portion, this definition shall be applied by substituting "New Money Portion" for "Construction Issue" each place the latter term appears. If an election under Section 148(f)(4)(C)(v) and Regulations §1.148-7(j) is made to bifurcate an issue or the New Money Portion of a Multipurpose Issue, this definition shall be applied by substituting "Construction Portion" for "Construction Issue" each place the latter term appears.

"Construction Portion" means that portion of an issue or the New Money Portion of a Multipurpose Issue at least 75% of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property that is, or upon completion will be, owned by a Governmental Unit or a 501(c)(3) Organization and that finances 100% of the Construction Expenditures.

"Controlled Group" means a group of entities controlled directly or indirectly by the same entity or group of entities within the meaning of Regulations §1.150-1(e).

"Current Refunding Issue" means a Refunding Issue that is issued not more than 90 days before the last expenditure of any Proceeds of the Refunding Issue for the payment of Debt Service on the Refunded Bonds.

"Current Refunding Portion" means that portion of a Multipurpose Issue that constitutes a separate governmental purpose and that would be treated as a Current Refunding Issue if it had been issued as a separate issue.

"Debt Service" means principal of and interest and any redemption premium on an issue.

"Excess Gross Proceeds" means all Gross Proceeds of an Advance Refunding Issue that exceed an amount equal to 1% of the Sale Proceeds of such Advance Refunding Issue, other than Gross Proceeds allocable to: (a) payment of Debt Service on the Refunded Bonds; (b) payment of Pre-Issuance Accrued Interest on the Advance Refunding Issue and interest on the Advance Refunding Issue that accrues for a period up to the completion date of any capital project financed by the Prior Issue, plus one year; (c) a reasonably required reserve or replacement fund for the

Advance Refunding Issue or Investment Proceeds of such fund; (d) payment of Issuance Costs of the Advance Refunding Issue; (e) payment of administrative costs allocable to repaying the Refunded Bonds, carrying and repaying the Advance Refunding Issue, or investments of the Advance Refunding Issue; (f) Transferred Proceeds allocable to expenditures for the governmental purpose of the Prior Issue (treating for this purpose all unspent Proceeds of the Prior Issue properly allocable to the Refunded Bonds as of the Issuance Date of the Advance Refunding Issue as Transferred Proceeds); (g) interest on purpose investments; (h) Replacement Proceeds in a sinking fund for the Advance Refunding Issue; and (i) fees for a Qualified Guarantee for the Advance Refunding Issue or the Prior Issue. If an Issue is a Multipurpose Issue that includes an Advance Refunding Portion, this definition shall be applied by substituting "Advance Refunding Portion" for "Advance Refunding Issue" each place the latter term appears.

"Federally Guaranteed" means that (a) the payment of Debt Service on an issue, or the payment of principal or interest with respect to any loans made from the Proceeds of the issue, is directly or indirectly guaranteed in whole or in part by the United States or by an agency or instrumentality of the United States, within the meaning of Section 149(b) of the Code, or (b) more than 5% of the Proceeds of an issue will be invested directly or indirectly in federally insured deposits or accounts. The preceding sentence does not apply to (a) Proceeds invested during an initial Temporary Period until such Proceeds are needed to pay costs of the project, (b) investments of a Bona Fide Debt Service Fund, (c) direct purchases from the United States of obligations issued by the United States Treasury, or (d) other investments permitted by Section 149(b) or Regulations §1.149(b)-1(b).

"501(c)(3) Organization" means an organization described in Section 501(c)(3) and exempt from tax under Section 501(a).

"Fixed Yield Issue" means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

"Governmental Unit" means a state, territory or possession of the United States, the District of Columbia, or any political subdivision thereof referred to as a "State or local governmental unit" in Regulations §1.103-1(a). "Governmental Unit" does not include the United States or any agency or instrumentality of the United States.

"Gross Proceeds" means Proceeds and Replacement Proceeds of an issue.

"Hedge" means a contract entered into by the Issuer or the Conduit Borrower primarily to modify the Issuer's or the Conduit Borrower's risk of interest rate changes with respect to an obligation (e.g., an interest rate swap, an interest rate cap, a futures contract, a forward contract or an option).

"Higher Yielding Investments" means any Investment Property that produces a Yield that (a) in the case of Investment Property allocable to Replacement Proceeds of an issue and Investment Property in a Refunding Escrow, is more than one thousandth of one percentage point (.00001) higher than the Yield on the applicable issue, and (b) for all other purposes is more than one-eighth of one percentage point (.00125) higher than the Yield on the issue.

"Investment Proceeds" means any amounts actually or constructively received from investing Proceeds of an issue in Investment Property.

"Investment Property" means investment property within the meaning of Sections 148(b)(2) and 148(b)(3), including any security (within the meaning of Section 165(g)(2)(A) or (B)), any obligation, any annuity contract and any other investment-type property (including certain residential rental property for family units as described in Section 148(b)(2)(E) in the case of any bond other than a Private Activity Bond). Investment Property includes a Tax-Exempt Obligation that is a "specified private activity bond" as defined in Section 57(a)(5)(C), but does not include other Tax-Exempt Obligations.

"Issuance Costs" means costs to the extent incurred in connection with, and allocable to, the issuance of an issue, and includes underwriter's compensation withheld from the Issue Price, counsel fees, financial advisory fees, rating agency fees, trustee fees, paying agent fees, bond registrar, certification and authentication fees, accounting fees, printing costs for bonds and offering documents, public approval process costs, engineering and feasibility study costs, guarantee fees other than for a Qualified Guarantee and similar costs, but does not include fees charged by the Issuer.

"Issuance Date" means the date of physical delivery of an issue by the Issuer in exchange for the purchase price of the issue.

"Issue Price" means in the circumstances applicable to an issue:

(1) Public Offering. In the case of obligations actually offered to the general public in a bona fide public offering at the initial offering price for each maturity set forth in the certificate of the underwriter or placement agent attached to the Tax Compliance Certificate of the Issuer, the aggregate of the initial offering price for each maturity (including any Pre-Issuance Accrued Interest and original issue premium, but excluding any original issue discount), which price is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity, as of the Sale Date, was sold or reasonably expected to be sold (other than to bond houses, brokers or other intermediaries). In the case of publicly offered obligations that are not described in the preceding sentence, Issue Price means the aggregate of the initial offering price to the public of each maturity set forth in the certificate of the underwriter or placement agent attached to the Tax Compliance Certificate of the Issuer, which price is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity was sold to the public.

(2) Private Placement. In the case of obligations sold by private placement, the aggregate of the prices (including any Pre-Issuance Accrued Interest and original issue premium, but excluding any original issue discount) paid to the

Issuer by the first purchaser(s) (other than bond houses, brokers or other intermediaries).

"Minor Portion" means an amount equal to the lesser of $100,000 or 5% of the Sale Proceeds of an issue.

"Multipurpose Issue" means an issue the bonds of which are allocable to two or more separate governmental purposes within the meaning of Regulations §1.148-9(h).

"Net Proceeds" means the Sale Proceeds of an issue less the portion thereof, if any, deposited in a reasonably required reserve or replacement fund for the issue.

"Net Sale Proceeds" means the Sale Proceeds of an issue less the portion thereof, if any, deposited in a reasonably required reserve or replacement fund for the issue and the portion invested as a part of a Minor Portion for the issue.

"New Money Issue" means an issue that is not a Refunding Issue.

"New Money Portion" means that portion of a Multipurpose Issue other than the Refunding Portion.

"Nonpurpose Investments" means any Investment Property that is acquired with Gross Proceeds as an investment and not in carrying out any governmental purpose of an issue. "Nonpurpose Investments" does not include any investment that is not regarded as "investment property" or a "nonpurpose investment" for the particular purposes of Section 148 (such as certain investments in U.S. Treasury obligations in the State and Local Government Series and certain temporary investments), but does include any other investment that is a "nonpurpose investment" within the applicable meaning of Section 148.

"Placed in Service" means the date on which, based on all the facts and circumstances, a facility has reached a degree of completion that would permit its operation at substantially its design level and the facility is, in fact, in operation at such level.

"Pre-Issuance Accrued Interest" means interest on an obligation that accrued for a period not greater than one year before its Issuance Date and that will be paid within one year after such Issuance Date.

"Preliminary Expenditures" means any Capital Expenditures that are "preliminary expenditures" within the meaning of Regulations §1.150-2(f)(2), i.e., architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project other than land acquisition, site preparation, and similar costs incident to commencement of construction. The aggregate amount of Preliminary Expenditures may not exceed 20% of the aggregate Issue Price of the issue or issues that financed or are reasonably expected to finance the project for which such Preliminary Expenditures are or were incurred.

"Prior Issue" means an issue of obligations all or a portion of the Debt Service on which is paid or provided for with Proceeds of a Refunding Issue. The Prior Issue may be a Refunding Issue.

"Private Activity Bond" means (a) obligations of an issue more than 10% of the Proceeds of which, directly or indirectly, are or are to be used for a Private Business Use and more than 10% of the Debt Service on which, directly or indirectly, is or is to be paid from or secured by payments with respect to property, or secured by property, used for a Private Business Use, or (b) obligations of an issue, the Proceeds of which are or are to be used to make or finance loans to any Private Person that, in the aggregate, exceed the lesser of 5% of such Proceeds or $5,000,000. In the event of Unrelated or Disproportionate Use, the tests in (a) shall be applied by substituting 5% for 10% each place the latter term is used.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any Private Person other than use as a member of, and on the same basis as, the general public. Any activity carried on by a Private Person (other than a natural person) shall be treated as a trade or business. In the case of a Qualified 501(c)(3) Bond, Private Business Use excludes use by a 501(c)(3) Organization that is not an unrelated trade or business activity by such 501(c)(3) Organization within the meaning of Section 513(a).

"Private Person" means any natural person or any artificial person, including a corporation, partnership, trust or other entity, other than a Governmental Unit. "Private Person" includes the United States and any agency or instrumentality of the United States.

"Proceeds" means any Sale Proceeds, Investment Proceeds, and Transferred Proceeds of an issue. "Proceeds" does not include Replacement Proceeds.

"Qualified Administrative Costs" means reasonable direct administrative costs (other than carrying costs) such as separately stated brokerage or selling commissions, but not legal and accounting fees, recordkeeping, custody and similar costs. General overhead costs and similar indirect costs of the Issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount are not Qualified Administrative Costs.

"Qualified 501(c)(3) Bonds" means an issue of obligations that satisfies the requirements of Section 145(a).

"Qualified Guarantee" means any guarantee of an obligation that constitutes a "qualified guarantee" within the meaning of Regulations §1.148-4(f).

"Qualified Hedge" means a Hedge that is a "qualified hedge" within the meaning of Regulations §1.148-4(h)(2).

"Rebate Amount" means the excess of the future value, as of any date, of all receipts on Nonpurpose Investments acquired with Gross Proceeds of an issue over the future value, as of that date, of all payments on those Nonpurpose Investments, computed in accordance with Section 148(f) and Regulations §1.148-3.

"Refunded Bonds" means obligations of a Prior Issue the Debt Service on which is or is to be paid from Proceeds of a Refunding Issue.

"Refunding Bonds" means obligations of a Refunding Issue.

"Refunding Issue" means an issue the Proceeds of which are or are to be used to pay Debt Service on Refunded Bonds and includes Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund and similar costs of the Refunding Issue.

"Refunding Escrow" means one or more funds established as part of a single transaction, or a series of related transactions, containing Proceeds of a Refunding Issue and any other amounts to be used to pay Debt Service on Refunded Bonds of one or more issues.

"Refunding Portion" means that portion of a Multipurpose Issue the Proceeds of which are, or are to be, used to pay Debt Service on Refunded Bonds and includes Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund and similar costs properly allocable to the Refunding Portion.

"Regulations" or "Reg." means Treasury Regulations.

"Reimbursement Allocation" means an allocation of the Proceeds of an issue for the Reimbursement of Prior Capital Expenditures, other than Preliminary Expenditures, that meets each of the following requirements: (a) is evidenced on the books or records of the Issuer maintained with respect to the issue, (b) the allocation entry identifies either actual prior Capital Expenditures, or the fund or account from which the prior Capital Expenditures were paid, and (c) evidences the Issuer's use of Proceeds of the issue to reimburse a Capital Expenditure for a governmental purpose that was originally paid from a source other than the Proceeds of the issue.

"Reimbursement of Prior Capital Expenditures" means a Reimbursement Allocation of Proceeds of the Issue to a Capital Expenditure paid prior to the Issuance Date of such Issue, that satisfies the following requirements: (a) the Capital Expenditure was paid after March 1, 1992; (b) prior to, or within 60 days after, payment of the Capital Expenditure (except Preliminary Expenditures), the Issuer adopted an official intent for the Capital Expenditure that satisfies Regulations §1.150-2(e); and (c) except for Preliminary Expenditures, the Reimbursement Allocation occurs or will occur within 18 months after the later of the date the Capital Expenditure was paid or the date the project resulting from such Capital Expenditure was Placed in Service or abandoned, but in no event more than 3 years after the Capital Expenditure was paid.

"Related Party" means, in reference to a Governmental Unit or 501(c)(3) Organization, any member of the same Controlled Group and, in reference to any person that is not a Governmental Unit or 501(c)(3) Organization, a "related person" as defined in Section 144(a)(3) of the Code.

"Replacement Proceeds" means, with respect to an issue, amounts (including any investment income, but excluding any Proceeds of any issue) replaced by Proceeds of that issue within the meaning of Section 148(a)(2). "Replacement Proceeds" includes amounts, other than Proceeds, held in a sinking fund, pledged fund or reserve or replacement fund for an issue.

"Sale Date" means, with respect to an issue, the first date on which there is a binding contract in writing with the Issuer for the sale and purchase of an issue (or of respective obligations of the issue if sold by the Issuer on different dates) on specific terms that are not later modified or adjusted in any material respect.

"Sale Proceeds" means that portion of the Issue Price actually or constructively received by the Issuer upon the sale or other disposition of an issue, including any underwriter's compensation withheld from the Issue Price, but excluding Pre-Issuance Accrued Interest.

"Spendable Proceeds" means the Net Sale Proceeds of an issue.

"Tax-Exempt Obligation" means any obligation or issue of obligations (including bonds, notes and lease obligations treated for federal income tax purposes as evidences of indebtedness) the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150, and includes any obligation or any investment treated as a "tax-exempt bond" for the applicable purpose of Section 148.

"Tax-Exempt Organization" means a Governmental Unit or a 501(c)(3) Organization.

"Temporary Period" means the period of time, as set forth in the Tax Compliance Certificate, applicable to particular categories of Proceeds of an issue during which such category of Proceeds may be invested in Higher Yielding Investments without the issue being treated as arbitrage bonds under Section 148.

"Transferred Proceeds" means that portion of the Proceeds of an issue (including any Transferred Proceeds of that issue) that remains unexpended at the time that any portion of the principal of the Refunded Bonds of that issue is discharged with the Proceeds of a Refunding Issue and that thereupon becomes Proceeds of the Refunding Issue as provided in Regulations §1.148-9(b). "Transferred Proceeds" does not include any Replacement Proceeds.

"Unrelated or Disproportionate Use" means Private Business Use that is not related to or is disproportionate to use by a Governmental Unit within the meaning of Section 141(b)(3) and Regulations §1.141-9.

"Variable Yield Issue" means any Issue that is not a Fixed Yield Issue.

"Working Capital Expenditures" means any costs of a type that do not constitute Capital Expenditures, including current operating expenses.

"Yield" has the meaning assigned to it for purposes of Section 148 of the Code, and means that discount rate (stated as an annual percentage) that, when used in computing the present worth of all applicable unconditionally payable payments of Debt Service, all payments for a Qualified Guarantee, if any, and all payments and receipts with respect to a Qualified Hedge, if any, paid and to be paid with respect to an obligation (paid and to be paid during and attributable to the Yield Period in the case of a Variable Yield Issue), produces an amount equal to (a) the Issue Price in the case of a Fixed Yield Issue or the present value of the Issue Price at the commencement of the applicable Yield Period in the case of a Variable Yield Issue, or (b) the purchase price for yield purposes in the case of Investment Property, all subject to the applicable methods of computation provided for under Section 148, including variations from the foregoing. The Yield on Investment Property in which Proceeds or Replacement Proceeds of an issue are invested is computed on a basis consistent with the computation of Yield on that issue, including the same compounding interval of not more than one year selected by the Issuer.

"Yield Period" means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

The terms "bond", "obligation", "reasonably required reserve or replacement fund", "reserve or replacement fund", "loan", "sinking fund", "purpose investment", "same plan of financing", "other replacement proceeds", and other terms relating to Code provisions used but not defined in this Certificate shall have the meanings given to them for purposes of Sections 103 and 141 to 150 unless the context indicates another meaning.

(End of Attachment A)

ATTACHMENT A-1
to
Tax Compliance Certificate of Local Borrower

INSTRUCTIONS FOR COMPLIANCE WITH REBATE REQUIREMENTS OF SECTION 148(f) OF THE CODE.

The Issuer covenanted in the Loan Agreement and Tax Compliance Certificate to comply with the arbitrage rebate requirement of Section 148(f) of the Code. These Instructions provide guidance for that compliance, including the spending exceptions that free the Issue from all or part of the rebate requirements.

PART I: GENERAL

SECTION 1.01. REBATE GENERALLY.

The Rebate Amount[1] with respect to the Issue must be paid (rebated) to the United States to prevent the bonds of the Issue from being arbitrage bonds, the interest on which is subject to federal income tax. In general, the Rebate Amount is the amount by which the actual earnings on Nonpurpose Investments purchased (or deemed to have been purchased) with Gross Proceeds of the Issue exceed the amount of earnings that would have been received if those Nonpurpose Investments had a Yield equal to the Yield on the Issue.[2]

Stated differently, the Rebate Amount for the Issue as of any date is the excess of the Future Value, as of that date, of all Receipts on Nonpurpose Investments over the Future Value, as of that date, of all Payments on Nonpurpose Investments, computed using the Yield on the Issue as the Future Value rate.[3]

If the Issue is a Fixed Yield Issue, the Yield on the Issue generally is the Yield to maturity, taking into account mandatory redemptions prior to maturity. If the Issue is a Variable Yield Issue, the Yield on the Issue is computed separately for each Yield Period selected by the Issuer.

SECTION 1.02. SPECIAL DEFINITIONS.

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1. Capitalized terms that are not defined in these Instructions are defined in Attachment A to the Tax Compliance Certificate of the Issuer.

2. Amounts earned on the Bona Fide Debt Service Fund for the Issue are not taken into account in determining the Rebate Amount since none of the obligations of the Issue are Private Activity Bonds, the rates of interest on the Issue do not vary and the average maturity of the Issue is at least 5 years.

3. The scope of these Instructions does not permit a detailed description of the computation of the Rebate Amount with respect to the Issue. If you need assistance in computing the Rebate Amount on the Issue, please contact your bond counsel.

For purposes of these Instructions, the following terms shall have the following meanings.

"Available Construction Proceeds" means an amount equal to (a) the sum of (i) the Issue Price of the issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocated to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocated to the Underwriter's discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocated to the issue. Available Construction Proceeds do not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocated to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the Projects financed by the issue is substantially completed. If the issue consists of a New Money Portion and a Refunding Portion and the New Money Portion is a Construction Issue, this definition shall be applied by substituting "New Money Portion" for "issue" each place the latter term appears. If the issue or the New Money Portion, as applicable, is not a Construction Issue, and the Issuer makes the election under Regulations §1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting "Construction Portion" for "issue" each place the latter term appears.

"Bifurcated Issue" means a New Money Issue or the New Money Portion of a Multipurpose Issue that the Issuer, pursuant to Section 148(f)(4)(C)(v) and Regulations §1.148-7(j), has elected in its Tax Compliance Certificate to bifurcate into a Construction Portion and a Nonconstruction Portion.

"Bond Counsel's Opinion" means an opinion or opinions of a nationally recognized bond counsel firm whose opinion is given with respect to the Issue when issued, or its successors or other nationally recognized bond counsel appointed by the Issuer.

"Bond Year" means the annual period relevant to the application of Section 148(f) to the issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of the issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

"Computation Date" means each date on which the Rebate Amount for an issue is required to be computed under Regulations §1.148-3(e). In the case of a Fixed Yield Issue, the first Computation Date shall not be later than 5 years after the Issuance Date of the issue. Subsequent Computation Dates shall be not later than 5 years after the immediately preceding Computation Date for which an installment payment of the Rebate Amount was paid. In the case of a Variable Yield Issue, the first Computation Date shall be the last day of any Bond Year irrevocably selected by the Issuer ending on or before the fifth anniversary of the Issuance Date of such issue and

subsequent Computation Dates shall be the last day of each Bond Year thereafter or each fifth Bond Year thereafter, whichever is irrevocably selected by the Issuer after the first date on which any portion of the Rebate Amount is required to be paid to the United States. The final Computation Date is the date an issue is retired.

"Construction Expenditures" means Capital Expenditures allocable to the cost of real property (including the construction or making of improvements to real property, but excluding acquisitions of interests in land or other existing real property) or constructed personal property within the meaning of Regulations §1.148-7(g).

"Construction Issue" means an issue at least 75 percent of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property which is or is to be owned by a Governmental Unit or a 501(c)(3) Organization. If an election has been made in the Issuer's Tax Compliance Certificate to bifurcate an issue or the New Money Portion, the Construction Portion (i.e., that portion of the issue or the New Money Portion which satisfies the 75 percent test stated in the preceding sentence and which finances 100% of the Construction Expenditures) is treated as the Construction Issue and the balance of the issue or the New Money Portion is treated as the Nonconstruction Portion.

"Fixed Yield Issue" means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

"Future Value" means the value of a Payment or Receipt at the end of a period determined using the economic accrual method as the value of that Payment or Receipt when it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the Yield on the Issue, using the same compounding interval and financial conventions that were used to compute that Yield.

"Guaranteed Investment Contract" means any Nonpurpose Investment that has specifically negotiated withdrawal or retirement provisions and a specifically negotiated interest rate and any agreement to supply investments on two or more future dates (e.g., a forward supply contract).

"Multipurpose Issue" means an issue that consists of a Refunding Portion and a New Money Portion.

"Payment" means payments actually or constructively made to acquire Nonpurpose Investments, as specified in Regulations §1.148-3(d)(1)i) through (v).

"Qualified Administrative Costs" means the reasonable, direct administrative costs, other than carrying costs, of purchasing or selling Nonpurpose Investments such as separately stated brokerage or selling commissions. Qualified Administrative Costs do not include legal and accounting fees, recordkeeping, custody, and similar costs, general overhead costs and similar indirect costs of the Issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount. In general, Qualified Administrative Costs are not reasonable unless they are comparable to administrative costs that would be charged for the same investment or

a reasonably comparable investment if acquired with a source of funds other than Gross Proceeds of Tax-Exempt Obligations.

"Reasonable Retainage" means an amount, not to exceed 5% of the Net Sale Proceeds of the Issue, that is retained for reasonable business purposes relating to the property financed with Proceeds of the Issue. For example, Reasonable Retainage may include a retention to ensure or promote compliance with a construction contract in circumstances in which the retained amount is not yet payable, or in which the Issuer reasonably determines that a dispute exists regarding completion or payment.

"Rebate Analyst" means an independent individual, firm or entity experienced in the computation of the Rebate Amount pursuant to Section 148(f) of the Code.

"Receipt" means amounts actually or constructively received from Nonpurpose Investments as specified in Regulations §1.148-3(d)(2)(i) through (iii).

"Variable Yield Issue" means any issue that is not a Fixed Yield Issue.

"Yield Period" means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

PART II: EXCEPTIONS TO REBATE

SECTION 2.01. SPENDING EXCEPTIONS.

The rebate requirements with respect to the Issue are deemed to have been satisfied if any one of three spending exceptions (the 6-Month, the 18-Month, or the 2-Year Spending Exception, collectively, the "Spending Exceptions") is satisfied. The Spending Exceptions are each independent exceptions. The Issue need not meet the requirements of any other exception in order to use any one of the three exceptions. For example, a Construction Issue may qualify for the 6-Month Spending Exception or the 18-Month Spending Exception even though the Issuer makes one or more elections under the 2-Year Exception with respect to the Issue.

The following rules apply for purposes of all of the Spending Exceptions except as otherwise noted.

Refunding Issues. The only spending exception available for a Refunding Issue[4] is the 6-Month Spending Exception.

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4. For purposes of these Instructions, references to "Refunding Issue" include the Refunding Portion of a Multipurpose Issue.

Special Transferred Proceeds Rules. In applying the Spending Exceptions to a Refunding Issue, unspent Proceeds of the Prior Issue that become Transferred Proceeds of the Refunding Issue are ignored. If the Prior Issue satisfies one of the rebate Spending Exceptions, the Proceeds of the Prior Issue that are excepted from rebate under that exception are not subject to rebate either as Proceeds of the Prior Issue or as Transferred Proceeds of the Refunding Issue.

However, if the Prior Issue does not satisfy any of the Spending Exceptions and is not otherwise exempt from rebate, the Transferred Proceeds from the Prior Issue will be subject to rebate, even if the Refunding Issue satisfies the 6-Month Spending Exception. The Rebate Amount will be calculated on the Transferred Proceeds on the basis of the Yield of the Prior Issue up to each transfer date and on the basis of the Yield of the Refunding Issue after each transfer date.

Application of Spending Exceptions to a Multipurpose Issue. If the Issue is a Multipurpose Issue, the Refunding Portion and the New Money Portion are treated for purposes of the rebate Spending Exceptions as separate issues. Thus, the Refunding Portion is eligible to use only the 6-Month Spending Exception. The New Money Portion is eligible to use any of the three Spending Exceptions.

Expenditures for Governmental Purposes of the Issue. Each of the spending exceptions requires that expenditures of Gross Proceeds be for the governmental purposes of the Issue. These purposes include payment of interest (but not principal) on the Issue.

SECTION 2.02. 6-MONTH SPENDING EXCEPTION.

The Issue will be treated as satisfying the rebate requirements if all of the Gross Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Issue within the 6-month period beginning on the Issuance Date and the Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or a Bona Fide Debt Service Fund if and to the extent that such Fund is subject to rebate (see footnote 3) is timely paid to the United States. If no bond of the Issue is a Private Activity Bond (other than a Qualified 501(c)(3) Bond) or a tax or revenue anticipation bond, the 6-month period is extended for an additional 6 months if the unexpended Gross Proceeds of the Issue at the end of the 6-month period do not exceed the lesser of 5% of the Proceeds of the Issue or $100,000.

For purposes of the 6-Month Spending Exception, Gross Proceeds required to be spent within 6 months do not include amounts in a reasonably required reserve or replacement fund for the Issue or in a Bona Fide Debt Service Fund for the Issue.

SECTION 2.03. 18-MONTH SPENDING EXCEPTION.

The Issue (or the New Money Portion if the Issue is a Multipurpose Issue) is treated as satisfying the rebate requirement if the conditions set forth in (A), (B) and (C) are satisfied.

(A) All of the Gross Proceeds of the Issue (excluding amounts in a reasonably required reserve or replacement fund for the Issue or in a Bona Fide Debt Service Fund for the Issue) are allocated to expenditures for the governmental purposes of the Issue in accordance with the following schedule, measured from the Issuance Date:

(1) at least 15% within 6 months;

(2) at least 60% within 12 months; and

(3) 100% within 18 months, subject to the Reasonable Retainage exception described below.

(B) The Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Fund for the Issue, to the extent such Fund is subject to rebate (see footnote 3), is timely paid to the United States. And,

(C) The Gross Proceeds of the Issue qualify for the initial 3-year Temporary Period.

If the only unspent Gross Proceeds at the end of the 18th month are Reasonable Retainage, the requirement that 100% of the Gross Proceeds be spent by the end of the 18th month is treated as met if the Reasonable Retainage, and all earnings thereon, are spent for the governmental purposes of the Issue within 30 months of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first two spending periods, the amount of Investment Proceeds that the Issuer reasonably expects as of the Issuance Date to earn on the Sale Proceeds and Investment Proceeds of the Issue during the 18-month period are included in Gross Proceeds of the Issue. The final spend-down requirement includes actual Investment Proceeds for the entire 18 months.

The 18-Month Spending Exception does not apply to the Issue (or the New Money Portion, as applicable) if any portion of the Issue (or New Money Portion) is treated as meeting the rebate requirement under the 2-Year Spending Exception discussed below. This rule prohibits use of the 18-Month Spending Exception for the Nonconstruction Portion of a Bifurcated Issue. The only Spending Exception available for the Nonconstruction Portion of a Bifurcated Issue is the 6-Month Spending Exception.

SECTION 2.04. 2-YEAR SPENDING EXCEPTION FOR CERTAIN CONSTRUCTION ISSUES.

(A) In general. A Construction Issue no bond of which is a Private Activity Bond (other than a Qualified 501(c)(3) Bond or a Bond that finances property to be owned by a Governmental Unit or a 501(c)(3) Organization) is treated as satisfying the rebate requirement if the Available Construction Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Issue in accordance with the following schedule, measured from the Issuance Date:

(1) at least 10% within 6 months;

(2) at least 45% within 1 year;

(3) at least 75% within 18 months; and

(4) 100% within 2 years, subject to the Reasonable Retainage exception described below.

Amounts in a Bona Fide Debt Service Fund or a reasonably required reserve or replacement fund for the Issue are not treated as Gross Proceeds for purposes of the expenditure requirements. However, unless the Issuer has elected otherwise in the Tax Compliance Certificate, earnings on amounts in a reasonably required reserve or replacement fund for the Issue are treated as Available Construction Funds during the 2-year period and therefore must be allocated to expenditures for the governmental purposes of the Issue.

If the Issuer elected in the Tax Compliance Certificate to exclude from Available Construction Proceeds the Investment Proceeds or earnings on a reasonably required reserve or replacement fund for the Issue during the 2-year spend-down period, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings from the Issuance Date must be timely paid to the United States. If the election is not made, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings after the earlier of the date construction is substantially completed or 2 years after the Issuance Date must be timely paid to the United States. The Rebate Amount, if any, with respect to earnings on amounts in a Bona Fide Debt Service Fund must be timely paid to the extent such Fund is subject to the rebate requirements (see footnote 3).

The Issue does not fail to satisfy the spending requirement for the fourth spend-down period (i.e., 100% within 2 years of the Issuance Date) if the only unspent Available Construction Proceeds are amounts for Reasonable Retainage if such amounts (together with all earnings on such amounts) are allocated to expenditures within 3 years of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first 3 spend-down periods, Available Construction Proceeds include the amount of Investment Proceeds or earnings that the Issuer reasonably expected as of the Issuance Date to earn during the 2-year period. For purposes of satisfying the final spend-down requirement,

Available Construction Proceeds include actual Investment Proceeds or earnings from the Issuance Date through the end of the 2-year period.

Available Construction Proceeds do not include Gross Proceeds used to pay Issuance Costs financed by the Issue, but do include earnings on such Proceeds. Thus, an expenditure of Gross Proceeds to pay Issuance Costs does not count toward meeting the spend-down requirements, but expenditures of earnings on such Gross Proceeds to pay Issuance Costs do count.

(B) 1½% penalty in lieu of rebate for Construction Issues. If the Issuer elected in the Tax Compliance Certificate for a Construction Issue, or for the Construction Portion of a Bifurcated Issue, to pay a 1½% penalty in lieu of the Rebate Amount on Available Construction Proceeds in the event that the Construction Issue fails to satisfy any of the spend-down requirements, the 1½% penalty is calculated separately for each spend-down period, including each semi-annual period after the end of the fourth spend-down period until all Available Construction Proceeds have been spent. The penalty is equal to 0.015 times the underexpended Proceeds as of the end of the applicable spend-down period. The fact that no arbitrage is in fact earned during such spend-down period is not relevant. The Rebate Amount with respect to Gross Proceeds other than Available Construction Proceeds (e.g., amounts in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Fund, to the extent subject to rebate (see footnote 3)) must be timely paid.

PART III: COMPUTATION AND PAYMENT.

SECTION 3.01. COMPUTATION AND PAYMENT OF REBATE AMOUNT.

If none of the Spending Exceptions described above is satisfied (and if the 1-1/2% penalty election for a Construction Issue or the Construction Portion of a Bifurcated Issue has not been made), then within 45 days after each Computation Date, the Issuer shall compute, or cause to be computed, the Rebate Amount as of such Computation Date. The first Computation Date is a date selected by the Issuer, but shall be not later than 5 years after the Issuance Date. Each subsequent Computation Date shall end 5 years after the previous Computation Date except that, in a Variable Yield Issue, the Issuer may select annual Yield Periods. The final Computation Date shall be the date the last obligation of the Issue matures or is finally discharged.

Within 60 days after each Computation Date (except the final Computation Date), the Issuer shall pay to the United States not less than 90% of the Rebate Amount, if any, computed as of such Computation Date. Within 60 days after the final Computation Date, the Issuer shall pay to the United States 100% of the Rebate Amount, if any, computed as of the final Computation Date. In computing the Rebate Amount, a computation credit of $1,000 may be taken into account on the last day of each Bond Year to the Computation Date during which there are unspent Gross Proceeds that are subject to the rebate requirement, and on the final maturity date.

If the operative documents pertaining to the Issue establish a Rebate Fund and require the computation of the Rebate Amount at the end of each Bond Year, the Issuer shall calculate, or cause to be calculated, within 45 days after the end of each Bond Year the Rebate Amount, taking into account the computation credit of $1,000 for each Bond Year. Within 50 days after the end of

each Bond Year, if the Rebate Amount is positive, the Issuer shall deposit in the Rebate Fund such amount as will cause the amount on deposit therein to equal the Rebate Amount, and may withdraw any amount on deposit in the Rebate Fund in excess of the Rebate Amount. Payments of the Rebate Amount to the Internal Revenue Service on a Computation Date shall be made first from amounts on deposit in the Rebate Fund and second from other amounts specified in the operative documents.

Each payment of the Rebate Amount or portion thereof shall be payable to the Internal Revenue Service and shall be made to the Internal Revenue Service Center, Ogden, UT 84201 by certified mail. Each payment shall be accompanied by Internal Revenue Service Form 8038-T and any other form or forms required to be submitted with such remittance.

SECTION 3.02. BOOKS AND RECORDS.

(A) The Issuer or Trustee, as applicable, shall keep proper books of record and accounts containing complete and correct entries of all transactions relating to the receipt, investment, disbursement, allocation and application of the Gross Proceeds of the Issue. Such records shall specify the account or fund to which each Nonpurpose Investment (or portion thereof) held by the Issuer or Trustee is to be allocated and shall set forth as to each Nonpurpose Investment (1) its purchase price, (2) identifying information, including par amount, interest rate, and payments dates, (3) the amount received at maturity or its sales price, as the case may be, including accrued interest, (4) the amounts and dates of any payments made with respect thereto, and (5) the dates of acquisition and disposition or maturity.

The Issuer, Trustee, or Rebate Analyst, as applicable, shall retain the records of all calculations and payments of the Rebate Amount until six years after the retirement of the last obligation that is a part of the Issue.

SECTION 3.03. FAIR MARKET VALUE.

No Nonpurpose Investment shall be acquired for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

The fair market value of any Nonpurpose Investment shall be the price at which a willing buyer would purchase the Nonpurpose Investment from a willing seller in an arms-length transaction. Fair market value generally is determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding (i.e., the trade date rather than the settlement date). Except as otherwise provided in this Section, a Nonpurpose Investment that is not of a type traded on an established securities market (within the meaning of Section 1273 of the Code) is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(A) Obligations purchased directly from the Treasury. The fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price.

(B) Safe harbor for Guaranteed Investment Contracts. The purchase price of a Guaranteed Investment Contract shall be treated as its fair market value on the purchase date if all the following conditions are met:

(1) The Issuer or broker makes a bona fide solicitation for a specified Guaranteed Investment Contract and receives at least three bona fide bids from reasonably competitive providers (of Guaranteed Investment Contracts) that have no material financial interest in the Issue.

(2) The Issuer purchases the highest-yielding Guaranteed Investment Contract for which a qualifying bid is made (determined net of broker's fees);

(3) The Yield on the Guaranteed Investment Contract (determined net of broker's fees) is not less than the Yield then available from the provider on reasonably comparable Guaranteed Investment Contracts, if any, offered to other persons from a source of funds other than Gross Proceeds of Tax-Exempt Obligations;

(4) The determination of the terms of the Guaranteed Investment Contract takes into account as a significant factor the Issuer's reasonably expected drawdown schedule for the amounts to be invested, exclusive of amounts deposited in a Bona Fide Debt Service Fund and a reasonably required reserve or replacement fund;

(5) The terms of the Guaranteed Investment Contract, including collateral security requirements, are reasonable; and

(6) The obligor on the Guaranteed Investment Contract certifies the administrative costs that it is paying (or expects to pay) to third parties in connection with the Guaranteed Investment Contract.

(C) Safe harbor for certificates of deposit. The purchase price of a certificate of deposit shall be treated as its fair market value on the purchase date if all of the following requirements are met:

(1) The certificate of deposit has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal; and

(2) The Yield on the certificate of deposit is not less than (a) the Yield on reasonably comparable direct obligations of the United States, or (b) the highest Yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

Certificates evidencing the foregoing requirements should be obtained before purchasing any Guaranteed Investment Contract or certificate of deposit.

SECTION 3.04. CONSTRUCTIVE SALE/PURCHASE.

(A) Nonpurpose Investments that are held by the Issuer or Trustee as of any Computation Date (or Bond Year if the computations are required to be done annually) shall be treated for purposes of computing the Rebate Amount as of such date as having been sold for their fair market value as of such date. Investment Property which becomes allocated to Gross Proceeds of the Issue on a date after such Investment Property has actually been purchased shall be treated for purposes of the rebate requirements as having been purchased by the Issuer on such date of allocation at its fair market value on such date.

(B) For purposes of constructive or deemed sales or purchases of Investment Property (other than Investment Property in the Escrow Fund or that is otherwise not invested for a Temporary Period or is not part of a reasonably required reserve or replacement fund for the Issue) must be valued at its fair market value on the date of constructive or deemed sale or purchase

(C) Except as set forth in (B), fixed rate Investment Property that is (1) issued with not more than 2% of original issue discount or original issue premium, (2) issued with original issue premium that is attributable exclusively to reasonable underwriters' compensation or (3) acquired with not more than 2% of market discount or market premium, may be treated as having a fair market value equal to its outstanding stated principal amount, plus accrued interest. Fixed rate Investment Property also may be treated as having a fair market value equal to its present value.

SECTION 3.05. ADMINISTRATIVE COSTS.

(A) Administrative costs shall not be taken into account in determining the payments for or receipts from a Nonpurpose Investment unless such administrative costs are Qualified Administrative Costs. Thus, administrative costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire Nonpurpose Investments generally do not increase the Payments for, or reduce the Receipts from, Nonpurpose Investments.

(B) Qualified Administrative Costs are taken into account in determining the Payments and Receipts on Nonpurpose Investments and thus increase the Payments for, or decrease the Receipts from, Nonpurpose Investments. In the case of a Guaranteed Investment Contract, a broker's commission or similar fee paid on behalf of either the Issuer or the provider is an administrative cost that is not a Qualified Administrative Cost to the extent that the present value (computed using the taxable discount rate used by the parties to compute the commission or, if not readily ascertainable, a reasonable taxable discount rate) of the commission, as of the date the contract is purchased, exceeds the present value of annual payments equal to 0.05 percent of the weighted average amount reasonably expected to be invested each year during the term of such contract.

PART IV: COMPLIANCE AND AMENDMENT

SECTION 4.01. COMPLIANCE.

The Issuer, Trustee or Rebate Analyst, as applicable, shall take all necessary steps to comply with the requirements of these Instructions in order to ensure that interest on the Issue is excluded from gross income for federal income tax purposes under Section 103(a) of the Code. However, compliance shall not be required in the event and to the extent stated therein the Issuer and the Trustee receive a Bond Counsel's Opinion that either (A) compliance with such requirement is not required to maintain the exclusion from gross income for federal income tax purposes of interest on the Issue, or (B) compliance with some other requirement in lieu of such requirement will comply with Section 148(f) of the Code, in which case compliance with the other requirement specified in the Bond Counsel's Opinion shall constitute compliance with such requirement.

SECTION 4.02. LIABILITY.

If for any reason any requirement of these Instructions is not complied with, the Issuer and the Trustee, if applicable, shall take all necessary and desirable steps to correct such noncompliance within a reasonable period of time after such noncompliance is discovered or should have been discovered with the exercise of reasonable diligence. The Trustee shall have no duty or responsibility to independently verify any of the Issuer's, or the Rebate Analyst's, calculations with respect to the payments of the Rebate Amount due and owing to the United States. Under no circumstances whatsoever shall the Trustee be liable to the Issuer, any bondholder or any other person for any inclusion of the interest on the Issue in gross income for federal income tax purposes, or any claims, demands, damages, liabilities, losses, costs or expenses resulting therefrom or in any way connected therewith, so long as the Trustee acts only in accordance with these Instructions and the operative documents pertaining to the Issue.

(End of Attachment A-1)

The 8038G will be prepared when $50,000 of loan funds have been disbursed

LOAN AGREEMENT STANDARD TERMS AND CONDITIONS

Water Infrastructure Finance Authority of Arizona

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This document sets forth Standard Terms and Conditions applicable to the Loan made by the WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (the "*Authority*") to the Local Borrower. These Standard Terms and Conditions are a part of the Loan Agreement to which this document is attached. Certain terms used herein are defined in Article 8.

Article 1 Covenants of the Local Borrower Relating to the System and the Project.

Section 1.1 **Operation and Maintenance of System**. The Local Borrower covenants and agrees that it shall, in accordance with prudent utility practice, (a) at all times operate the properties of the System and any business in connection therewith in an efficient manner, (b) maintain the System in good repair, working order and operating condition, and (c) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that at all times the operations carried on in connection therewith shall be properly and advantageously conducted from revenues of the System or, if the Local Borrower so elects, from any other source of funds lawfully available.

Section 1.2 **Additions and Modifications**. The Local Borrower may make any additions, renewals, replacements, modifications or improvements to the System which it deems desirable and which do not materially reduce the operational integrity of any part of the System. All such renewals, replacements, additions, modifications and improvements shall become a part of the System.

Section 1.3 **Disposition of Project and System**.

(a) The Local Borrower shall not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System except upon compliance with the provisions of this Section; provided, however that the requirements of this Section shall not apply to transactions which are capital leases within the meaning of generally accepted accounting principles to finance expansion or improvement of the System and under which the Local Borrower maintains a purchaser's interest or other beneficial ownership, use, possession and control of the System so long as no default exists.

(b) The Local Borrower may sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System if the Local Borrower shall give at least ninety (90) days' prior written notice to the Authority of the proposed transaction, and the Authority gives its written consent which shall not be unreasonably withheld. The Local Borrower understands that the Authority, in determining whether or not to give its consent, must determine that the proposed transaction will not adversely affect the Authority's ability to meet its duties, covenants, obligations and agreements or conditions of any grant received by the Authority or the State from the United States of America, which is related to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act, as amended, and the Federal Safe Drinking Water Act, as amended.

(c) Notwithstanding the provisions of subsection (b) above, the Local Borrower may sell, lease or otherwise dispose of, any of the property comprising part of the System without prior notice to or the consent of the Authority, other than the Project, in either of the following circumstances:

(i) If the Local Borrower determines that such property is not necessary, useful or profitable to the operation of the System; or

(ii) If the value of such property sold, leased or otherwise disposed of in any one year is equal to not more than 5% of the value of the fixed assets of the System.

Section 1.4 **Cost of Project**. The Local Borrower certifies that the estimated Eligible Project Costs as listed in Section 1 of Exhibit B is a reasonable and accurate estimation of the Eligible Project Costs and, upon the direction of the Authority the Local Borrower will supply the Authority with a certificate from its engineer stating that such estimated Eligible Project Costs is a reasonable and accurate estimation.

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Article 2 Additional Covenants of the Local Borrower

Section 2.1 **Unconditional Obligations**. The obligation of the Local Borrower to make the Loan Repayments and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part described herein are payable solely from the Source of Repayment described in this Loan Agreement and shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments hereunder remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or the System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project or this Loan Agreement, or any rights of set-off, recoupment, abatement or counterclaim that the Local Borrower might otherwise have against the Authority or any other party or parties; provided, however, that payments under this Loan Agreement shall not constitute a waiver of any such rights. The Local Borrower shall not be obligated to make any payments required to be made by any other local borrowers under separate loan agreements or local borrower bonds. Notwithstanding any other provision of this Section 2.1, or this Loan Agreement, neither the Authority, nor any assignee of the Authority shall have the right or ability to compel the repayment of this Loan Agreement from any source other than the Source of Repayment.

Section 2.2 **Performance Under Loan Agreement**. The Local Borrower covenants and agrees (a) to maintain the System in good repair and operating condition; (b) to cooperate with the Authority to the extent it may lawfully do so, in the observance and performance of the respective duties, covenants, obligations and agreements of such Local Borrower and the Authority under this Loan Agreement; and (c) to comply with the covenants set forth in this Loan Agreement.

Section 2.3 **Disclaimer of Warranties**. The Local Borrower acknowledges and agrees that (i) the Authority makes no warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System or the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Authority or its respective agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the System or the Project; and (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the laws of the United States or of the State.

Section 2.4 **Loan Repayments; Prepayments; Providing for Payment of the Loan**.

(a) Loan Repayments.

(i) The Local Borrower shall pay to the Authority the amounts set forth in the Loan Repayment Schedule contained in Exhibit A on or before the due dates shown in Exhibit A.

(ii) Each payment made as a Loan Repayment as described in subsection (i) shall be applied first to the combined interest and fee payment then due and payable on the Loan and then to the principal amount of the Loan.

(iii) In addition to the other payments required by this Section, the Local Borrower shall pay a late charge for any payment that is received by the Authority later than the tenth day following its due date, in an amount equal to six percent per annum of the amount of the late payment from its due date to the date it is actually paid; provided, however, that the combined interest and fee rate payable on the Loan including such late charge shall not be in excess of the maximum rate permitted by law or any proceedings or resolution authorizing the execution of this Loan Agreement.

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(iv) Upon the final disbursement, if the Loan amount is less than the estimated Eligible Project Costs, the amount of each Principal Installment due as set forth in the Loan Repayment Schedule contained in Exhibit A shall be adjusted to achieve substantially level debt service, and the Authority shall compute the adjusted combined interest and fee amounts to reflect the adjusted principal amounts and shall enter the results in a revised Loan Repayment Schedule delivered to the Local Borrower.

(b) Prepayments. The Loan is not subject to prepayment prior to the tenth anniversary of the final loan draw. The Local Borrower may prepay the Principal Repayment Amount of the Loan in whole or in part in advance of the due dates on or after the tenth anniversary of the final loan draw without penalty upon written notice delivered to the Authority at least 60 days prior to the prepayment date. If the Local Borrower prepays the Repayment Principal Amount in part, the amount of each Principal Installment due as set forth in the Loan Repayment Schedule contained in Exhibit A shall be adjusted to achieve substantially level debt service. Upon such adjustment, the Authority shall compute the adjusted combined interest and fees amounts to reflect the adjusted principal amounts and shall enter the results in the Loan Repayment Schedule with notice to the Local Borrower.

(c) Providing for Payment of the Loan. The Local Borrower may at any time provide for the payment and discharge of the Loan, as provided in this subsection. The Loan shall be deemed to have been paid and discharged if:

(i) the Local Borrower has delivered to the Authority proof satisfactory to the Authority that the Local Borrower has deposited with a financial institution acceptable to the Authority, in trust for and irrevocably committed to payments on the Loan, cash or non-callable direct obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) and obligations of any agency or instrumentality of the United States of America the timely payment of the principal of and interest on which are unconditionally guaranteed by the United States of America, which are of such maturities and interest payment dates, and bear such interest, as will be sufficient together with any moneys also deposited, without further investment or reinvestment of either the principal amount or the interest earnings (which earnings are to be held likewise in trust and so committed), to pay all the amounts due under the Loan, as set forth in the Loan Repayment Schedule contained in Exhibit A, as evidenced in a report of an independent firm of nationally recognized certified public accountants addressed to and delivered to the Authority; and

(ii) the Authority has received a bond counsel opinion (as described in Section 6.2(b) and (c) below) to the effect that the deposit of funds and the investment of such deposit, as described in the preceding paragraph, will not, by itself, adversely affect the exclusion from gross income of interest on the Loan or any Authority Bonds for federal income tax purposes.

Section 2.5 **Source of Repayment of Local Borrower's Obligations and Pledge**. The Local Borrower irrevocably pledges the Source of Repayment described in this Loan Agreement for the punctual payment of all amounts due under the Loan Agreement. The Authority and the Local Borrower agree that the amounts payable by the Local Borrower under this Loan Agreement are payable solely from the Source of Repayment described in this Loan Agreement and are not payable from any other source whatsoever, unless the Local Borrower chooses to pay, and pays, any amount due hereunder from any other source lawfully available to it.

Section 2.6 **Insurance**. The Local Borrower shall maintain or cause to be maintained in force, insurance policies with responsible insurers or self-insurance programs or through membership in a risk retention pool, including, but not limited to, the Arizona Municipal Risk Retention Pool (in accordance with the Local Borrower's customary practices) providing against risk of direct physical loss, damage or destruction of the Project and the System, at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining system facilities of the nature of the System, including liability coverage, all to the extent available at reasonable cost.

Section 2.7 **No Liens**. Except for:

(a) the debt service on any future bonds, notes or other evidence of indebtedness of the Local Borrower issued or contractual obligations incurred in accordance with this Loan Agreement payable from the funds pledged to the payment of this Loan Agreement which are on parity with the lien and charge on the funds so pledged to pay this Loan Agreement and

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(b) as provided in Exhibit D of this Loan Agreement, the debt service on currently outstanding bonds, notes or evidences of indebtedness or contractual obligations of the Local Borrower, if any, payable from the Source of Repayment described in Exhibit D of this Loan Agreement which the Local Borrower has disclosed to the Authority in writing,

the funds so pledged as described in this Loan Agreement after the payment of all costs of operating and maintaining the System, are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto which are prior to, or of equal rank with, the obligation of the Local Borrower to pay this Loan Agreement, and all corporate or other action on the part of the Local Borrower to that end has been and will be duly and validly taken.

Section 2.8 **Disadvantaged Business Enterprises**. As applicable, the Local Borrower shall comply with 40 C.F.R Part 33[1] including but not limited to:

Local Borrowers and their prime contractors must follow, document, and maintain documentation of their good faith efforts as listed below to ensure that Disadvantage Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach.

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U. S. Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in sections (a) through (e) above.

These conditions must be included in all procurement contracts entered into by the Local Borrower for all DWRF and CWRF projects:

(a) The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the owner.

(b) The prime contractor must notify the owner in writing prior to the termination of any Disadvantage Business Enterprise subcontractor for convenience by the prime contractor.

(c) If a Disadvantage Business Enterprise contractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement contractor.

[1] See Article 9 for a full list of applicable federal laws and authorities relating to Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.

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(d) The prime contractor must continue to employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

(e) The prime contractor must provide EPA Form 6100-2 DBE Program Subcontractor Participation Form to all of its Disadvantaged Business Enterprise subcontractors. Disadvantaged Business Enterprise subcontractors may send completed Form 6100-2 directly to the Region 9 DBE Coordinator listed below.

Joe Ochab, EPA Region 9, 75 Hawthorne St. (P-22), San Francisco, CA 94105

(f) The prime contractor must have its Disadvantaged Business Enterprise subcontractors complete EPA Form 6100-3 – DBE Program Subcontractor Performance Form. The prime contractor must include all completed forms as part of the prime contractor's bid or proposal package to the Local Borrower.

(g) The prime contractor must complete and submit EPA 6100-4 DBE Program Subcontractor Utilization Form as part of the prime contractor's bid or proposal package to the Local Borrower.

(h) A Local Borrower must ensure that each procurement contract it awards contains the following terms and conditions:

> The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

Article 3 Representations of Local Borrower

The Local Borrower represents for the benefit of the Authority that the representations contained in this Loan Agreement are true at the time of execution and delivery of this Loan Agreement and, other than with respect to events outside of Local Borrower's control, will be true in all material respects at all times during the term of this Loan Agreement.

Section 3.1 **Organization and Authority**.

(a) The Local Borrower is a Political Subdivision or Indian Tribe as defined in the Authority Act.

(b) The Local Borrower has full legal right and authority and has, or will obtain as and when required, all necessary licenses and permits required to acquire, own, operate and maintain the Project and the System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, to pledge the Source of Repayment, and to carry out and consummate all transactions contemplated by this Loan Agreement. The Project is a project which the Local Borrower may undertake pursuant to State law and for which the Local Borrower is authorized by law to borrow money.

(c) The proceedings of the Local Borrower's governing body approving this Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Local Borrower, and authorizing the Local Borrower to undertake and complete the Project have been duly and lawfully adopted in accordance with the laws of the State.

(d) This Loan Agreement has been duly authorized, executed and delivered by an Authorized Officer of the Local Borrower; and, assuming that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered this Loan Agreement, this Loan Agreement constitutes a legal and valid obligation of the Local Borrower enforceable in accordance with its terms, and the information contained under "Description of the Loan" in this Loan Agreement is true and accurate in all material respects.

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Section 3.2 **Full Disclosure**.

(a) To the best of the Local Borrower's knowledge, there is no fact that the Local Borrower has not disclosed to the Authority in writing that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the System, or the ability of the Local Borrower to make all Loan Repayments due hereunder and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(b) The information relating to the Local Borrower (including without limitation the financial and statistical data contained therein) submitted to the Authority by the Local Borrower in connection with the Authority's approval of the Loan was at the time of the Authority's approval of the Loan and at all times subsequent thereto up to and including the Loan Closing, will be (if necessary by amendment provided by the Local Borrower) true and correct and will not contain an untrue statement of material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading in any adverse respect. To the extent permitted by law, and notwithstanding any other provision of this Loan Agreement, the Local Borrower will indemnify, save and hold harmless the Authority, and each of the Authority's agents, for, from and against any and all claims, damages, liability and court awards including costs, expenses and reasonable attorneys' fees incurred as a result of any omission or misstatement of material fact in the information submitted to the Authority by the Local Borrower in connection with the Authority's approval of the Loan, as it may have been supplemented and amended by the Local Borrower.

Section 3.3 **Pending Litigation**. There are no proceedings pending, or to the knowledge of the Local Borrower, threatened, against or affecting the Local Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the System, or the ability of the Local Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement that have not been disclosed in writing to the Authority in the Local Borrower's application for the Loan or otherwise.

Section 3.4 **Compliance with Existing Laws and Agreements**. The authorization, execution and delivery of this Loan Agreement by the Local Borrower, the observance and performance by the Local Borrower of its duties, covenants, obligations and agreements hereunder and the consummation of the transactions provided for in this Loan Agreement, the compliance by the Local Borrower with the provisions of this Loan Agreement and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Local Borrower pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than the lien and charge of this Loan Agreement and any ordinance or resolution or indenture which authorized outstanding obligations of the Local Borrower which are on a parity with this Loan Agreement as to a lien on, or a source and security for, payment thereon from the source of payment that is pledged to the Loan Repayments) to which the Local Borrower is a party or by which the Local Borrower, the System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Local Borrower was established or any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the Local Borrower, the System or its properties or operations are subject.

Section 3.5 **No Defaults**. No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Local Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Local Borrower or the ability of the Local Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

Section 3.6 **Governmental Consent**. The Local Borrower has or will have obtained prior to the date of the Loan Closing all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental agency) for the making, observance and performance

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by the Local Borrower of its duties, obligations and agreements under this Loan Agreement or for the undertaking or completion of the Project and the financing thereof, and the Local Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Local Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing thereof; and the Local Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Local Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer, other than those already obtained or reasonably expected to be obtained, is required on the part of the Local Borrower as a condition to the authorization, execution and delivery of this Loan Agreement, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

Section 3.7 **Compliance with Law**. The Local Borrower:

(a) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject and the failure to comply with which would materially adversely affect the ability of the Local Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Local Borrower or the System; and

(b) has obtained, or will obtain as and when required, all licenses, permits, franchises or other governmental authorizations necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the Local Borrower to undertake or complete the Project or the condition (financial or otherwise) of the Local Borrower or the System.

Article 4 Assignment

Section 4.1 **Assignment and Transfer by Authority**. The Local Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the Authority deems to be necessary in connection with the Clean Water Revolving Fund and Drinking Water Revolving Fund programs of the Authority.

Section 4.2 **Assignment by Local Borrower**. This Loan Agreement may not be assigned by the Local Borrower for any reason, unless the following conditions shall be satisfied: (i) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code or another entity acceptable to the Authority and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Local Borrower's duties, covenants, agreements and obligations hereunder; (ii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Local Borrower hereunder; and (iii) the Authority shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Authority with, or condition of any grant received by the Authority from the United States of America relating to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act and the Federal Safe Drinking Water Act.

No assignment shall relieve the Local Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Local Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Article 5 Defaults and Remedies

Section 5.1 **Events of Default**. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "*Event of Default*":

(a) failure by the Local Borrower to pay, or cause to be paid, when due any Loan Repayment;

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(b) failure by the Local Borrower to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Local Borrower for borrowed money (other than the Loan), after giving effect to the applicable grace period, the payments of which are secured by the Source of Repayment described in this Loan Agreement;

(c) failure by the Local Borrower to perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraphs (a) and (b) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Local Borrower by the Authority, unless the Authority agrees in writing to an extension of such time prior to its expiration, provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period the Authority may not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Local Borrower and diligently pursued until the Event of Default is corrected;

(d) the institution of any proceeding, with the acquiescence of the Local Borrower, for the purpose of effecting a composition between the Local Borrower and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from the Source of Repayment described in this Loan Agreement;

(e) a determination by the Authority that any material representation made by or on behalf of the Local Borrower contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement, is false or misleading in any material respect; and

(f) the filing of a petition by or against the Local Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Local Borrower such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Local Borrower becoming insolvent or bankrupt or making an assignment for the benefit of its creditors; or the appointment of a custodian (including, without limitation, a receiver, liquidator or trustee of the Local Borrower or any of its property including the System) by court order, or possession of the Local Borrower or its property or assets is taken if such order remains in effect or such possession continues for more than thirty (30) days.

Section 5.2 **Notice of Default**. The Local Borrower shall give the Authority prompt telephone notice of the occurrence of any Event of Default referred to in Section 5.1 paragraph (c) hereof, and of the occurrence of any other event or condition that constitutes an Event of Default, at such time as any senior administrative or financial officer of the Local Borrower becomes aware of the existence thereof. Any telephone notice pursuant to this Section shall be confirmed in writing by the end of the next Business Day.

Section 5.3 **Remedies on Default.**

(a) Whenever an Event of Default referred to in Section 5.1 hereof shall have occurred and be continuing, the Authority shall have the right to take any action permitted or required pursuant to this Loan Agreement and to take whatever other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due on their scheduled payment dates or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Local Borrower hereunder, including, without limitation, appointment of a receiver of the System.

(b) Nothing in this Loan Agreement shall be construed to affect the Attorney General taking action to enforce this Loan Agreement in accordance with the Authority Act.

Section 5.4 **Attorney's Fees and Other Expenses**. In the event of a default hereunder by the Local Borrower, the Local Borrower shall on demand and to the extent not prohibited by applicable law pay to the Authority the reasonable fees and expenses of attorneys and other reasonable expenses (including without limitation the reasonably allocated costs of in-house counsel and legal staff) incurred by the Authority in the collection of Loan

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Repayments or any other sum due hereunder or in the enforcement of performance or observance of any other duties, covenants, obligations or agreements of the Local Borrower to the extent permitted by law.

Section 5.5 **Application of Moneys**. The parties acknowledge that: (a) all amounts coming due hereunder as Loan Repayments shall be treated as principal and combined interest and fees with respect to the Loan which amounts are secured by a pledge of the Source of Repayment in accordance with Exhibit D of this Loan Agreement; and (b) amounts coming due under Section 5.4 hereof shall be secured by the Source of Repayment on a basis subordinate to the Loan Repayments, but on a parity with comparable expenses relating to such Outstanding Parity Obligations and Additional Parity Obligations.

However, any moneys collected by the Authority pursuant to Section 5.3 in the exercise of remedies with respect to amounts due or to become due hereunder shall be applied: (a) first, to pay any attorney's fees or other fees and expenses owed by the Local Borrower pursuant to Section 5.4 hereof, (b) second, to pay delinquent combined interest fees and late charges on the Loan; (c) third, to pay combined interest and fees then due and payable on the Loan; (d) fourth, to pay delinquent principal on the Loan in order of scheduled maturity; (e) fifth, to pay principal then due and payable on the Loan; and (f) sixth, to pay any other amounts due and payable pursuant to this Loan Agreement.

Section 5.6 **No Remedy Exclusive; Waiver; Notice**. No remedy conferred upon or reserved to the Authority hereunder is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it as described in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

Section 5.7 **Retention of Authority's Rights**. Notwithstanding any assignment or transfer of this Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Local Borrower at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Local Borrower to the Authority.

Section 5.8 **Default by the Authority**. In the event of any default by the Authority in any duty, covenant, agreement or obligation described in this Agreement, the Local Borrower's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Authority described herein as may be necessary or appropriate. The Authority shall on demand pay to the Local Borrower the reasonable fees and expenses of attorneys and other reasonable expenses in the enforcement of such performance or observance.

Article 6 Provisions Applicable to Loans Financed by or Pledged to Secure Authority Bonds

Section 6.1 **General.** The Local Borrower acknowledges that the Authority is entering into this Loan Agreement and agreeing to make the Loan at this time for the benefit of the Local Borrower, and that the Authority may finance the Loan, along with other loans to other local borrowers, through the issuance of Authority Bonds and may pledge the Loan to secure Authority Bonds. If and for so long as the Authority's source of funds to make disbursements on, or to carry, the Loan represented by this Loan Agreement is, or becomes, the proceeds of Authority Bonds, or this Loan Agreement is assigned by the Authority as security for payment of amounts due or to become due on Authority Bonds, the Local Borrower agrees to cooperate with the Authority with respect to the issuance of Authority Bonds by furnishing and certifying information concerning the Local Borrower, the Project, the System and the Source of Repayment, and by agreeing to reasonable modifications and additions to this Loan Agreement necessary or convenient for the Authority Bond transaction. Without limiting the generality of the foregoing, the Local Borrower agrees that if the Authority at any time determines, in its discretion, that it is necessary in connection with the

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issuance of Authority Bonds or the maintenance of the Authority's bond program, then the provisions set forth in this Article shall be in effect.

Section 6.2 **Tax Covenants**.

(a) General. The Local Borrower acknowledges that, in connection with its state revolving fund programs, the Authority issues its Authority Bonds from time to time to finance loans and the Authority also pledges certain loans to secure and to serve as the source of payment for the Authority Bonds. As a result, and under the provisions of federal tax law applicable to the Authority Bonds, it is in the Authority's interest for the Loan to qualify and be a Tax-Exempt Obligation that is not an AMT Obligation. Therefore, the Local Borrower represents and covenants as follows with respect to the Loan and the Authority Bonds. The Local Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Loan or the Authority Bonds under Section 103(a) of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an AMT Obligation, and in the event of such action or omission, it will, promptly upon having such brought to its attention, take such reasonable actions based upon a bond counsel opinion as may rescind or otherwise negate such action or omission. The Local Borrower will not directly or indirectly use or permit the use of any proceeds of the Loan or any other funds of the Local Borrower or take or omit to take any action that would cause the Loan or the Authority Bonds to be or become "arbitrage bonds" within the meaning of Section 148(a) of the Internal Revenue Code or to fail to meet any other applicable requirement of Sections 103, 141, 148, 149 and 150 of the Internal Revenue Code or cause the interest on the Loan or the Authority Bonds to become an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code. To that end, the Local Borrower will comply with all applicable requirements of Sections 103, 141, 148, 149 and 150 of the Code to the extent applicable to the Loan.

(b) Modification Based on Bond Counsel Opinion. Notwithstanding any provision of this Section, if the Local Borrower provides to the Authority a bond counsel opinion to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Loan or the Authority Bonds pursuant to Section 103(a) of the Internal Revenue Code, the provisions of this Section and the covenants in this Section shall be deemed to be modified to that extent.

(c) Bond Counsel Opinion. For purposes of this Article, "bond counsel opinion" means an opinion letter of a firm of attorneys of national reputation experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds, and who is acceptable to the Authority.

Section 6.3 **Third Party Beneficiaries**. The Trustee, the owners from time to time of the Authority Bonds, any Credit Enhancer from time to time of the Authority Bonds and any underwriter of the Authority Bonds are each expressly acknowledged to be third party beneficiaries of this Loan Agreement and each representation, agreement, duty, obligation and provision of this Loan Agreement.

Section 6.4 **Additional Documents Relating to Authority Bonds**. The Local Borrower will furnish to the Authority and certify to such information and execute and deliver and cause to be executed and delivered such documents as the Authority, the underwriter or other parties to any Authority Bond transaction may reasonably require, including, without limitation:

(a) a certificate of an Authorized Officer of the Local Borrower to the effect that the information contained in the Final Official Statement (defined in Section 6.5, paragraph (a)) for the Authority Bonds concerning the Local Borrower is correct in all material respects and is an accurate summary of the information which it purports to summarize, and that nothing has come to the Authorized Officer's attention that would lead the Authorized Officer to believe that the information in the Final Official Statement relating to the Local Borrower contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

(b) subject to the continuing disclosure requirements of Securities and Exchange Commission Rule 15c2-12 (the "*Disclosure Rule*"), a continuing disclosure undertaking of the Local Borrower meeting the requirements of the Disclosure Rule , and a statement of the Local Borrower as to whether it has failed to provide any information and

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notices required by the provisions of previous continuing disclosure undertakings, if any, of the Local Borrower under the Disclosure Rule, and if it has not, describing the circumstances and status of such failure; and

(c) an appropriate certificate executed by Authorized Officer of the Local Borrower concerning the reasonable expectations of the Local Borrower as to the use of the proceeds of the Loan and such other matters as may be required on the part of the Local Borrower in order to ensure that the Authority Bonds are and will remain Tax-Exempt Obligations that are not AMT Obligations, and the Local Borrower covenants to comply with the provisions of such certificate; and

(d) such other certificates, documents and information, and supplemental opinions of Local Borrower's counsel, as the Authority, the underwriters of the Authority Bonds or other parties to the Authority Bonds transaction may reasonably require and as are necessary to confirm the continued truth and accuracy of information supplied by or on behalf of the Local Borrower.

Section 6.5 **Disclosure Regarding Authority Bonds**.

(a) The information, if any, relating to the Local Borrower (including without limitation the financial and statistical data contained therein) which has been furnished by the Local Borrower to be included in, and which is included in, a Preliminary Official Statement of the Authority (the "*Preliminary Official Statement*"), or a final Official Statement (the "*Final Official Statement*") of the Authority concerning any Authority Bonds, as of the respective dates of each such document and at all times subsequent thereto up to and including the Bond Closing, will be (if necessary by amendment provided by the Local Borrower) true and correct and will not contain an untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. To the extent permitted by law, and notwithstanding any other provision of this Loan Agreement, the Local Borrower will indemnify, save and hold harmless the Authority and each other local borrower, if any, included in the Final Official Statement, and each of such parties' respective agents, for, from and against any and all claims, damages, liability and court awards including costs, expenses and attorneys fees incurred as a result of any omission or misstatement of a material fact in the Local Borrower's information in the Final Official Statement, as it may have been supplemented or amended by the Local Borrower.

(b) The Local Borrower agrees that from the date of the Final Official Statement and for a period until not later than 25 days after the date of the Bond Closing if and so long as the offering of the Authority Bonds continues (i) the Local Borrower will furnish such information with respect to itself as the Authority (for itself or at the request of the underwriters of the Authority Bonds) may from time to time reasonably request and (ii) if any event shall occur as a result of which it is necessary, in the opinion of Bond Counsel to the Authority, or counsel for the underwriters of the Authority Bonds, to amend or supplement the information in the Final Official Statement relating to the Local Borrower in order to make such information not misleading in light of the circumstances then existing, the Local Borrower will forthwith prepare, and furnish to the Authority and the underwriters such information relating to the Local Borrower as may be necessary to permit the preparation of an amendment of or supplement to the Final Official Statement (in form and substance satisfactory to the Bond Counsel to the Authority and counsel for the underwriters) which will amend or supplement the Final Official Statement so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances then existing, not misleading.

(c) The Local Borrower agrees that if prior to the 25th day following the end of the underwriting period of the Authority Bonds, as defined for purposes of the Disclosure Rule, any event shall occur which causes the representations contained in Section 6.4, paragraph (a) to be false in any material respect, the Local Borrower shall promptly notify the Authority of such development, and if in the opinion of the Authority and the underwriters of the Authority Bonds such development requires the preparation of a supplement or an amendment to the Preliminary Official Statement or the Final Official Statement, the Local Borrower agrees to cooperate with the Authority and the underwriters for the Authority Bonds in preparing any such supplement or amendment in a form acceptable to such parties and to pay all reasonable expenses incurred by such parties in connection with the preparation thereof.

Section 6.6 **Assignment and Transfer by Authority to Trustee**.

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(a) The Local Borrower expressly acknowledges that, other than the right of the Authority to be indemnified by the Local Borrower, all right, title and interest of the Authority in, to and under this Loan Agreement will be assigned to the Trustee as security for the Authority Bonds, as applicable, as provided in the Authority's Master Trust Indenture, and that if any Event of Default shall occur the Trustee, pursuant to the Authority's Master Trust Indenture, shall be entitled to act hereunder in the place and stead of the Authority. The Local Borrower hereby acknowledges the requirements of the Authority's Master Trust Indenture applicable to the Authority Bonds and consents to such assignment and appointment. The Authority shall retain the right to compel or otherwise enforce observance and performance by the Local Borrower of its duties, covenants, obligations and to be indemnified by the Local Borrower; provided, however, that in no event shall the Authority or the Trustee have the right to accelerate the payments under this Loan Agreement.

(b) The Local Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the Authority deems to be necessary in connection with any refunding of the Authority Bonds or otherwise in connection with the Clean Water Revolving Fund and Drinking Water Revolving Fund programs of the Authority.

Section 6.7 **Conditions to Assignment by Local Borrower**. Notwithstanding Section 4.2, this Loan Agreement may not be assigned by the Local Borrower for any reason, unless the following conditions shall be satisfied: (i) the Authority, the Trustee and the Credit Enhancer, if any, of the Authority Bonds shall have approved said assignment in writing; (ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Internal Revenue Code or another entity acceptable to the Authority and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Local Borrower's duties, covenants, agreements and obligations hereunder; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Local Borrower hereunder; (iv) the Authority and the Trustee shall have received an opinion of bond counsel to the effect that such assignment will not adversely affect the exclusion of interest on the Authority Bonds from gross income for purposes of Federal income taxation under Section 103(a) of the Code or make the Authority Bonds or the Loan AMT Obligations; and (v) the Authority and the Trustee shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of the Master Trust Indenture or any agreement entered into by the Authority with, or condition of any grant received by the Authority from, the United States of America relating to the Capital Grant Facility or any capitalization grants received by the Authority or the State under the Federal Water Pollution Control Act and the Federal Safe Drinking Water Act.

No assignment shall relieve the Local Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Local Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Section 6.8 **Sale or Other Disposition of Project or System**. The Local Borrower agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or the System unless (i) the transferee assumes the Local Borrower's obligations under this Loan Agreement in accordance with Section 6.6, (ii) the Authority shall by appropriate action determine, in its sole discretion, that such sale, lease, abandonment or other disposition will not adversely affect the Authority's ability to meet its duties, covenants, obligations and agreements under the Bond Documents, and will not adversely affect the eligibility of interest on Authority Bonds then outstanding or which could be issued in the future for exclusion from gross income for purposes of federal income taxation or cause such Authority Bonds to be AMT Obligations, and (iii) the Credit Enhancer, if any, of the Authority Bonds shall have given its prior written consent to such disposition.

Section 6.9 **Deficiencies Under Bond Documents Caused by Failure to Make Loan Repayment**. The Local Borrower acknowledges that payment of the Authority Bonds by the Authority, including payment from moneys drawn by the Trustee from the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ established under the Bond Documents, does not constitute payment of the amounts due under this Loan Agreement. If at any time the amounts on deposit in the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ shall be less than the amounts required by the Bond Documents as the result of any transfer of moneys from the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Account~~s~~ which in turn is the result of a failure by the Local Borrower to make any Loan Repayments required hereunder, the Local Borrower agrees to (i) replenish such moneys so transferred, and (ii) replenish any deficiency arising from losses incurred in making such transfer as the result of the

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liquidation by the Authority of investment securities acquired as an investment of moneys in the Bond Reserves or the CWRF Financial Assistance Account and DWRF Financial Assistance Accounts, by making payments to the Authority in equal monthly installments for the lesser of six (6) months or the remaining term of the Loan at a combined interest and fee rate to be determined by the Authority necessary to make up any loss caused by such deficiency, provided that the combined interest and fee rate payable on the Loan including such make-up combined interest and fees shall not exceed the maximum rate permitted by the Authorizing Proceedings which authorized this Loan Agreement.

Section 6.10 **Indemnification**. To the extent permitted by law, the Local Borrower shall indemnify, save and hold harmless the Authority against any and all claims, damages, liability and court awards including costs, expenses and attorney fees to the extent incurred as a result of any gross negligence or willful misconduct by the Local Borrower, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement.

Section 6.11 **Compliance with Master Trust Indenture**. The Local Borrower covenants and agrees to take such action as it may lawfully take and as the Authority shall reasonably request so as to enable the Authority to observe and comply with, all duties, covenants, obligations and agreements contained in the Master Trust Indenture insofar as such duties, covenants, obligations and agreements relate to the obligations of the Local Borrower under this Loan Agreement.

Section 6.12 **Provisions Relating to Default**.

(a) Any notice or information which the Local Borrower is to give to the Authority pursuant to the provisions of Article 5 shall also be given by the Local Borrower to the Trustee and to any Credit Enhancer at the same time.

(b) Notwithstanding the provisions of Section 5.3, paragraph (a) and Section 5.7, so long as a Credit Enhancer is not in default of its obligations with respect to its payment guarantee of the Authority Bonds and such guarantee is in effect, the Credit Enhancer shall have the right to direct the exercise of remedies provided for herein and the Trustee and the Authority shall not pursue any remedy except with the prior written consent of the Credit Enhancer.

(c) In the event of a default hereunder by the Local Borrower, the Local Borrower shall also pay the expenses of the Trustee and of any Credit Enhancer in the same manner as provided in Section 5.4 with respect to the expenses of the Authority.

Section 6.13 **Tax Compliance Certificate**. If the Authority Bonds are issued and sold on the basis that they are Tax-Exempt Obligations, an Authorized Officer of the Local Borrower shall deliver an appropriate certificate concerning the reasonable expectations of the Local Borrower as to the use of the proceeds of the Loan and such other matters as may be required on the part of the Local Borrower in order to ensure that the Authority Bonds are and will remain Tax-Exempt Obligations that are not AMT Obligations, and the Local Borrower covenants to comply with the provisions of such certificate.

Article 7 Miscellaneous

Section 7.1 **Binding Effect**. This Loan Agreement shall inure to the benefit of and shall be binding upon the Authority and the Local Borrower and their respective successors and assigns.

Section 7.2 **Severability**. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any Court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 7.3 **Amendments, Supplements and Modifications**. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority and the Local Borrower.

Section 7.4 **Execution in Counterparts**. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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Section 7.5 **Captions**. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

Section 7.6 **Further Assurances**. The Local Borrower shall, at the request of the Authority, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Loan Agreement.

Section 7.7 **State of Arizona Contract Provisions**.

(a) Books and Records. As required by the provisions of Arizona Revised Statutes Section 35-214, the Local Borrower agrees that all books, accounts, reports, files and other records relating to this Loan Agreement shall be retained and shall be subject at all reasonable times to inspection and audits by the Authority for five years after completion of this Loan Agreement, and that upon request by the Authority such records shall be produced at any of the Authority offices designated herein as the place at which notices to the Authority are to be given.

(b) Prohibition Against Discrimination. In the event that it applies, the parties agree to comply with the Arizona Governor's Executive Order 2009-9, entitled "Prohibition of Discrimination in State Contracts Non-Discrimination in Employment by Government Contractors and Subcontractors," which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Local Borrower shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(c) Governing Law and Forum. This Loan Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of Arizona, except as such laws may be preempted by any federal rules or regulations. The parties hereto expressly acknowledge and agree and all Local Borrowers by their acceptance thereof shall be deemed to have acknowledged and agreed that any judicial action to interpret or enforce the terms of this Loan Agreement against the Authority shall be brought and maintained in the Superior Court of the State of Arizona in and for Maricopa County or in the United States District Court in and for the District of Arizona.

(d) Arbitration. In the event of a dispute, the parties agree to use arbitration, after exhausting applicable administrative review, to the extent required by Arizona Revised Statutes Section 12-1518, and the prevailing party shall be entitled to attorney's fees and costs with respect thereto.

(e) Notice of Arizona Revised Statutes Section 38-511 – Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to this Loan Agreement under the law of the State of Arizona.

(f) Additional Warranties and Certifications from the Local Borrower. In compliance with Section 23-214(B) of the Arizona Revised Statutes, the Local Borrower warrants to the Authority that either (i) it is not an "employer" (within the meaning of Arizona Revised Statutes Section 23-214(B)) or (ii) it is registered with and is participating in the employment verification pilot program as jointly administered by the United States department of homeland security and the social security administration or any of its successor programs (the "E-Verify Program") and that the proof submitted to the Authority of that registration and participation is true and correct. The Local Borrower agrees that, until the Loan is fully paid, at all times during which it is an "employer" (within the meaning of Arizona Revised Statutes Section 23-214(B)) it will be registered with and will participate in the E-Verify Program. The breach by the Local Borrower of the foregoing shall be deemed a material breach by the Local Borrower of this Loan Agreement and may result in penalties up to and including the termination of this Loan Agreement. If the Authority determines that the Local Borrower is not so registered and participating when required, the Authority will notify the Local Borrower by certified mail of the determination of noncompliance and the Local Borrower's right to appeal the determination. On a final determination of noncompliance, the Local Borrower shall repay all monies received as an economic development incentive (within the meaning of Arizona Revised Statutes Section 23-214(B)) to the Authority within thirty days of the final determination.

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Article 8 Definitions

Section 8.1 **Definitions**. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meaning:

"*AMT Obligation*" means a Tax-Exempt Obligation the interest on which is an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations under the Internal Revenue Code.

"*Annual Loan Review Form*" means the loan compliance questionnaire circulated by the Authority to all borrowers as part of the Authority's annual loan portfolio review.

"*Authority*" means the Water Infrastructure Finance Authority of Arizona, a body corporate and politic of the State of Arizona duly created and validly existing under and by virtue of the Authority Act.

"*Authority Act*" means Title 49, Chapter 8 (Section 49-1201 et seq.) of the Arizona Revised Statutes ("A.R.S.").

"*Authority Bonds*" means any bonds of the Authority issued to finance the State's revolving fund established pursuant to the Water Pollution Control Act, as amended, and the Safe Drinking Water Act, as amended.

"*Authorized Officer*" means, (i) with respect to the Local Borrower, the person whose name is set forth in this Loan Agreement or such other person or persons authorized by the Local Borrower to act as an authorized officer of the Local Borrower to perform any act or execute any document relating to the Loan or this Loan Agreement whose name is furnished in writing to the Authority and the Trustee; and (ii) with respect to the Authority, the Chairman, Vice Chairman, Executive Director, or any other person or persons designated by the Board to act on behalf of the Authority with respect to this Loan Agreement; the designation of such person or persons shall be evidenced by a written certificate containing a specimen signature of such person or persons and signed on behalf of the Authority by its Chairman or Vice Chairman.

"*Bond Closing*" means the date of initial delivery of and payment for the Authority Bonds.

"*Bond Documents*" means and includes the Master Trust Indenture, any supplemental indenture and any comparable or related document pursuant to which the Authority Bonds are issued, and all further amendments and supplements thereto adopted in accordance with the provisions thereof.

"Bond Reserves" means reserves established by the Bond Documents for the Authority Bonds to secure timely payment of amounts due on the Authority Bonds even if one or more local borrowers do not make timely payments on their loans.

"*Business Day*" means any day other than a Saturday, Sunday or legal holiday or a day on which banking institutions, in the city in which the designated office of the Authority (being Phoenix, Arizona) is located, are closed.

"*Capital Grant Facility*" means the contractual arrangement established with the Authority by the United States of America Environmental Protection Agency to make capitalization grant payments pursuant to Title VI of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 125 et seq.) and the Federal Safe Drinking Water Act, as amended (particularly 42 U.S.C. § 300j-12 et seq.).

"*Clean Water Act*" means the Federal Water Pollution Control Act amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the Water Quality Act of 1987 (P.L. 100-4; 101 Stat. 7) and the Water Resources Reform and Development Act of 2014 (P.L. 113-21, 128 Stat. 1193).

"*Clean Water Revolving Fund*" means the fund established by A.R.S. § 49-1221.

"*Code*" means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any

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official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

"*Combined Interest and Fee Rate*" means periodic interest and fee payments made by the Borrower, see Exhibit A to this Loan Agreement.

"*Construction Period"* means the period from the date of the Loan Closing until the date of the final disbursement of proceeds of the Loan pursuant to this Loan Agreement, but in no event later than the third anniversary of the Loan Closing.

"*Cost*" means those costs that are eligible to be funded from draws under the Capital Grant Facility and are reasonable, necessary and allocable to the Project and are permitted by generally accepted government auditing standards to be costs of the Project.

"*Credit Enhancer*" means the entity so designated in the Bond Documents, if any, or any successor thereto, that from time to time has issued and outstanding a municipal bond insurance policy or similar payment guarantee relating to the Authority Bonds.

"*CWRF Financial Assistance Account*" means the account so designated in the Master Trust Indenture to which loans funded by the Clean Water Revolving Fund shall be credited.

"*Debt Management Fee*" means the fee component of the combined interest and fee payments made by the Borrower, see Exhibit A to this Loan Agreement.

"*Department*" means the Department of Environmental Quality of the State of Arizona.

"*Drinking Water Facility*" has the meaning given that term in the Authority Act, currently: a community water system or a non-profit noncommunity water system as defined in the Federal Safe Drinking Water Act (P.L. 93-523; 88 Stat. 1660l; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in the State. The term does not include water systems owned by federal agencies.

"*Drinking Water Revolving Fund*" means the fund established by A.R.S. § 49-1241.

"*DWRF Financial Assistance Account*" means the account so designated in the Master Trust Indenture to which loans funded by the Drinking Water Revolving Fund shall be credited.

"*Eligible Project Costs*" means, whether incurred before or after the date of this Loan Agreement, such portion of the Costs as is disbursed by the Authority for the benefit of the Local Borrower. The Local Borrower and the Authority acknowledge that the actual Eligible Project Costs for the Project have not been determined as of the effective date of this Loan Agreement. The final Eligible Project Costs shall be established after all disbursements have been made.

"*Event of Default*" means any occurrence or event specified in Section 5.1 hereof.

"*Indian Tribe*" has the meaning given that term by the Authority Act, currently: any Indian tribe, band, group or community that is recognized by the United States Secretary of the Interior and that exercises governmental authority within the limits of any Indian reservation under the Jurisdiction of the United States government notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

"*Loan*" means (a) during the Construction Period, the commitment to lend to the Local Borrower the Estimated Eligible Project Costs set forth in this Loan Agreement (as it may be amended or revised from time to time), and (b) thereafter, the amount of money equal to the Eligible Project Costs which is actually loaned to the Local Borrower pursuant to this Loan Agreement.

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"*Loan Agreement*" or "*Agreement*" means this Loan Agreement, including the Exhibits and these Standard Terms and Conditions attached to this Loan Agreement, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"*Loan Closing*" means the date of execution and delivery of this Loan Agreement.

"*Loan Repayment Date*" means the payment dates commencing and ending on the dates set forth in this Loan Agreement.

"*Loan Repayments*" means the payments payable by the Local Borrower pursuant to this Loan Agreement.

"*Local Borrower*" means the Political Subdivision or Indian Tribe that is a party to and is described in the first paragraph of this Loan Agreement.

"*Master Trust Indenture*" means and includes the Master Trust Indenture dated as of August 1, 1999, as supplemented, and any comparable or related document, pursuant to which the Authority issues Authority Bonds.

"*Political Subdivision*" has the meaning given that term by the Authority Act, currently: a county, city, town or special taxing district authorized by law to construct wastewater treatment facilities.

"*Project*" is the project described in Section 2.1 of the Loan Agreement, all or a portion of the Cost of which is financed from the proceeds of the Loan.

"*Repayment Period*" means the period over which the principal amount of the Loan will be repaid which period begins and ends on the dates set forth in this Loan Agreement.

"*Repayment Principal Amount*" means the amount the Authority agrees to loan to the Local Borrower pursuant to this Loan Agreement or such lesser amount of actual Eligible Project Costs as represents the aggregate amount of the Loan actually made pursuant to this Loan Agreement.

"Reserve Fund Surety" means a surety bond, insurance policy, letter of credit or similar arrangement representing the irrevocable obligation of the issuer thereof to pay to or at the direction of the Local Borrower an amount up to the Reserve Requirement as set forth in Exhibit A.

"*Safe Drinking Water Act*" means the Federal Safe Drinking Water Act (P.L. 93-523; 88 Stat. 1660; P.L. 96-190; 91 Stat . 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.

"*Source of Repayment*" means the "source of repayment" set forth in this Loan Agreement as defined in Exhibit D.

"*State*" means the State of Arizona.

"*System*" means the "System" as defined in Section 2.2 of the Loan Agreement.

"*Tax-Exempt Obligation*" means any obligation or issue of obligations (including bonds, notes and lease obligations treated for federal income tax purposes as evidences of indebtedness) the interest on which is excluded from gross income for federal income tax purposes within the meaning of Section 150 of the Code, and includes any obligation or any investment treated as a "tax-exempt bond" for the applicable purpose of Section 148 of the Code

"*Trustee*" means the Trustee appointed by the Authority pursuant to the Bond Documents and its successor or successors and any other corporation which may at any time be substituted in its place as Trustee pursuant to the Bond Documents.

Terms not otherwise defined herein shall have the meanings ascribed to them in Exhibit D to the Loan Agreement.

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Section 8.2 **Rules of Interpretation**. For all purposes of this Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of one gender include the corresponding words of other genders; words of neuter include both genders; and words in the singular include words in the plural and vice versa.

(b) Words indicating persons, parties, or entities (and the like) include firms, associations, partnerships (including limited partnerships), limited liability companies (and the like), corporations, trusts and other legal entities, including public and governmental bodies, as well as natural persons.

(c) References to a statute refer to the statute, as amended, and any successor statute, and to all regulations promulgated under or implementing the statute or successor statute, as in effect at the relevant time.

(d) References to a governmental or quasi-governmental entity or representatives thereof also refer to an entity that succeeds to the functions of the governmental or quasi-governmental entity and representatives thereof.

(e) Headings preceding sections of text and any table of contents are solely for convenience of reference and are not part of this Loan Agreement and are not to affect its meaning, interpretation or effect.

(f) Actions permitted under this Loan Agreement may be taken at any time and from time to time in the actor's sole discretion.

(g) The word "including" means "including, but not limited to" and the word "include" means "include, among others."

(h) The terms "hereby," "hereof," "herein," and "hereunder" (and the like) refer to this Loan Agreement.

(i) Indications of time of day mean local time in Phoenix, Arizona.

(j) This Loan Agreement shall be governed by and construed in accordance with the applicable law of the State of Arizona, except for its conflict of law rules and except as preempted by federal.

Article 9 List of Federal Laws and Authorities

By Section 5.4 and Section 5.5 of Exhibit B to the Loan Agreement, the Local Borrower agrees that the Project will comply with applicable provisions of the following federal laws and authorities:

Environmental:

1. Archaeological and Historical Preservation Act of 1974, Pub. L. 93-291; 16 U.S.C. § 469a-1.

2. Clean Air Act, Pub. L. 95-95, as amended; 42 U.S.C. § 7401 et. seq.

3. Clean Water Act, Titles II, IV, and V, Pub. L. 92-500, as amended.

4. Coastal Barrier Resources Act, Pub. L. 97-348; 16 U.S.C. § 3501 et. seq.

5. Coastal Zone Management Act, Pub. L. 92-583, as amended; 16 U.S.C. § 1451 et. seq.

6. Endangered Species Act, Pub. L. 93-205, as amended; 16 U.S.C. § 1531 et seq.

7. Environmental Justice, Executive Order 12898.

8. Farmland Protection Policy Act, Pub. L. 97-98; 7 U.S.C. § 4201 et seq.

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9. Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended.

10. Floodplain Management, Executive Order 11988, as amended by Executive Order 12148.

11. Magnunson-Stevens Fishery Conservation and Management Act, Pub L. 94-265, as amended; 16 U.S.C. § 1801 et. seq.

12. National Historic Preservation Act of 1966, Pub. L. 89-665, as amended; 16 U.S.C. § 470 et. seq.

13. Protection and Enhancement of the Cultural Environment, Executive Order 11593.

14. Protection of Wetlands, Executive Order 11990, as amended by Executive Order 12608; Pub. L. 99-645, as codified at 16 U.S.C. § 3901 et. seq.

15. Safe Drinking Water Act, Section 1424(e), Pub. L. 92-523, as amended; 42 U.S.C. § 300f et. seq.

16. Wild and Scenic Rivers Act, Pub. L. 90-542, as amended; 16 U.S.C. § 1271 et. seq.

17. Migratory Bird Treaty Act of 1918, 16 U.S.C. § 703 et. seq.

Social Legislation:

1. Age Discrimination Act, Pub. L. 94-135; 42 U.S.C. § 6102.

2. Civil Rights Act of 1964, Pub. L. 88-352, Title VI; 42 U.S.C. § 2000d.

3. Equal Employment Opportunity, Executive Order 11246, as amended.

4. Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements.

    a. Promoting the use of Small, Minority, and Women-owned Businesses, Executive Orders 11625, 12138 and 12432.

    b. Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590.

    c. Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389; 42 U.S.C. § 4370d.

    d. Title X Clean Air Act, Pub. L. 101-549; 42 U.S.C. § 7601 note.

5. Rehabilitation Act of 1973, Pub. L. 93-112; 29 U.S.C. § 794 (including Executive Order 11914 and 11250).

6. Section 13 of the Federal Water Pollution Control Act, Pub. L. 92-500; 33 U.S.C. § 1251.

7. The Drug Free Workplace Act Of 1988, Pub. L. 100-690.

Economic and Miscellaneous Authority:

1. Anti-Lobbying Provision (40 CFR Part 34) and New Restrictions on Lobbying, Section 319 of Pub. L. 101-121.

2. Debarment and Suspension, Executive Order 12549.

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3. Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended; 42 U.S.C. § 3331 et. seq.

4. Preservation of Open Competition and Government Neutrality, Executive Order 13502.

5. Prohibitions relating to violators of the Clean Air Act, Section 306 of the Clean Air Act, 42 U.S.C. § 7505; Section 508 of the Clean Water Act, 33 U.S.C. § 1368; Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans.

6. Uniform Relocation and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, as amended; 42 U.S.C. §§ 4601-4655.

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RESOLUTION NO. 2022-06

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, OF THE CITY OF FLAGSTAFF, ARIZONA, A MUNICIPAL CORPORATION OF ARIZONA, TO AUTHORIZE THE APPLICATION FOR A CLEAN WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

RECITALS:

WHEREAS, the City of Flagstaff, Arizona, has identified a need for a stormwater capital improvement project; and

WHEREAS, pursuant to Sections 9-521 through 540, Arizona Revised Statutes, and specifically Section 9-571, Arizona Revised Statutes, such city may obligate the revenues generated by its utility system to repay a loan from the Water Infrastructure Finance Authority of Arizona ("WIFA"); and

WHEREAS, such city certifies that the population of the community is under 150,000 in population as of the most recent U.S. Census Date; and

WHEREAS, it is in the best interest of such city to pursue and apply for financial assistance from WIFA of an amount not to exceed $20,000,000 for such stormwater project; and

WHEREAS, the population of such city at the time of this request is less than 150,000, which meets the requirement under Section 9-571, Arizona Revised Statutes.

ENACTMENTS:

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

SECTION 1. The Management Services Director of such city is hereby authorized to apply for CWSRF financial assistance from WIFA.

SECTION 2. The Management Services Director of such city is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed $20,000,000 payable from revenues of the utility system.

SECTION 3. All actions of the officers and agents of such city which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of such city are hereby authorized and directed to do all such acts and things and to execute and deliver all such application documents on behalf of such city as may be necessary to carry out the terms and intent of this resolution.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 15th day of February, 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

For

CITY ATTORNEY

RESOLUTION NO. 2019-42

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, DECLARING, FOR PURPOSES OF SECTION 1.150 2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES RELATING TO THE MUNICIPAL COURT FACILITIES PROJECT, WATER PROJECTS, WASTEWATER PROJECTS, AND STORMWATER PROJECTS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff, Arizona, a political subdivision of the State of Arizona (hereinafter referred to as the "City"), is authorized and empowered to finance the costs of various capital facilities and equipment owned or to be owned by the City; and

WHEREAS, it is contemplated that certain expenditures made by the City with regard to capital facilities and equipment owned or to be owned by the City will be reimbursed from the financing proceeds in the future by or on behalf of the City.

ENACTMENTS:

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

SECTION 1. Definitions. The following terms shall have the meanings assigned thereto as follows:

"Official intent" means a declaration of intent of the City to reimburse an original expenditure with proceeds of an obligation.

"Original expenditure" means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond.

"Reimbursement bond" means the portion of an issue of obligations allocated to reimburse an original expenditure that was paid before the issue date of such issue.

SECTION 2. Official Intent. This Resolution is official intent relating to reimbursement for the original expenditures indicated in Exhibit A attached hereto which are capital expenditures [being any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles].

SECTION 3. Project Descriptions. The projects for which such original expenditures are to be paid are for those described on the Exhibit A attached hereto and the maximum principal amount of obligations (including the reimbursement bonds for such purposes) to be issued for such projects will not exceed $41,000,000.

SECTION 4. Reasonableness of Official Intent. On the date of this Resolution, the Council of

the City has a reasonable expectation (being that a prudent person in the same circumstances would have based on all the objective facts and circumstances) that it will reimburse such original expenditures with proceeds of such obligations. [Official intents have not been declared by the Council of the City as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for such projects. Moreover, the Council of the City does not have a pattern (other than in extraordinary circumstances) of failure to reimburse actual original expenditures covered by official intents.]

SECTION 5. Reimbursement Period. With certain exceptions, an allocation in writing that evidences use of proceeds of the reimbursement bonds to reimburse the original expenditures shall be made not later than 18 months after the later of the date that the original expenditure is paid or the date the project is "placed in service," but in no event more than 3 years after the original expenditure is paid. The City is allowed to reimburse for expenditures up to 60 days prior to the date of the resolution adoption.

SECTION 6. Public Record. This Resolution shall be included as of the date hereof in the publicly available official records of the City, such records being maintained and supervised by the Clerk of the City, being the main administrative office of the City, and shall remain available for public inspection on a reasonable basis.

SECTION 7. Effective Date. This resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of September 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

For

CITY ATTORNEY

Exhibits:
Exhibit A – Original Expenditures Intended to be Reimbursed as of July 5, 2019

EXHIBIT A

ORIGINAL EXPENDITURES INTENDED TO BE REIMBURSED
AS OF JULY 5, 2019

Description of Original Expenditures	Amount of Expenditures
Municipal Court Facilities	$ 16,000,000
Water Projects	$ 3,000,000
Wastewater Projects	$ 4,000,000
Stormwater Projects	$ 18,000,000

12. F.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Rick Tadder, Management Services Director
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Adoption of Ordinance No. 2022-08: An ordinance of the Council of the City of Flagstaff, Coconino County, Arizona (1) providing for the sale and execution and delivery pursuant to a Series 2019 Utility System Revenue Trust Agreement of utility system revenue obligations, in one or more series evidencing proportionate interests of the owners thereof in installment payments of the purchase price to be paid by the City of Flagstaff, Arizona, pursuant to a Series 2019 Utility System Revenue Purchase Agreement to finance costs of certain improvements to the water and sewer utility system of the City; (2) authorizing the completion, execution and delivery with respect thereto of agreements necessary or appropriate as part of financing the costs of such improvements and paying related financing costs; (3) delegating to the Mayor, the City Manager, and the Management Services Director certain authority with respect to the purposes hereof; (4) authorizing the Management Services Director to expend all necessary funds therefor and (5) authorizing the Management Services Director or his designees to take all other actions necessary to the consummation of the transaction contemplated by this ordinance and establishing an effective date.

STAFF RECOMMENDED ACTION:

At the April 5, 2022 Council Meeting:

1) Read Ordinance No. 2022-08 by title only for the first time
2) City Clerk reads Ordinance no. 2022-08 by title only (if approved above)

At the April 19, 2022 Council Meeting:

3) Read Ordinance No. 2022-08 by title only for the final time
2) City Clerk reads Ordinance no. 2022-08 by title only (if approved above)
3) Adopt Ordinance No. 2022-08

Executive Summary:

This ordinance authorizes the issuance of up to $9,865,000 of revenue pledge indebtedness for water and stormwater projects. There may be one financing or two separate to provide up to $4,100,000 for the Stormwater fund and up to $5,765,000 to refinance existing loans in the Water fund. An ordinance is required to authorize the City to borrow money, pursuant to City Charter ARTICLE VI - FINANCE AND TAXATION, Section 5 - WHEN ACTIONS ARE TO BE TAKEN BY ORDINANCE.

Financial Impact:

The issuance of debt for the Stormwater fund has been established during the 2018 rate analysis and is included in the current 5-year plans for the fund. The future debt service payments of principal and interest are also included in the 5-year plan. We are requesting to issue up to $4.1 million in debt to fund Stormwater studies and infrastructure. The funding will be used to help pay for the construction of two new stormwater detention basins at Killip Elementary School, per the Intergovernmental Agreement entered into by and between the City and the Flagstaff Unified School District in January 2022.

The issuance of debt for the Water and Wastewater funds has been established during the 2016 rate study and is included in the current 5-year plans for the funds. The City has several outstanding Water Infrastructure Financing Authority of Arizona loans that exceed today's interest rates. The City seeks to refinance up to $5,765,000 for those loans which may provide approximately $150,000 in savings for the Water fund.

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

PRIORITY BASED BUDGETING KEY COMMUNITY PRIORITIES:
Sustainable, Innovative Infrastructure: Deliver outstanding services to residents through a healthy, well maintained infrastructure system.
Safe & Healthy Community: Foster a safe, secure, and healthy community.

REGIONAL PLAN:
Goal WR.5. Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections, and rainwater harvesting.
Goal WR.6. Protect, preserve, and improve the quality of surface water, groundwater, and reclaimed water in the region.

CARBON NEUTRALITY:
CR-1: Ensure all mitigation actions improve Flagstaff's ability to adapt to the future.
CR-2: Strengthen existing community systems to create resilience to both short-term shocks and long-term change.

Has There Been Previous Council Decision on This:

On July 5, 2019 Council adopted Reimbursement Resolution 2019-42 for $18,000,000 related to stormwater projects.

Options and Alternatives:

- Approve the Ordinance as written allowing the City to move forward with the issuance of pledge revenue obligations.
- Recommend changes to the Ordinance modifying the issuance of pledge revenue obligations.
- Do not approve the authority move forward with the issuance of pledge revenue obligations. This will delay financing of infrastructure and may result in higher interest rates.

Background/History:

Issuing debt for water, wastewater and stormwater funds is a common practice to pay for large capital improvement projects for such utilities. Rate studies for these utilities address this when setting user fees and balancing the consideration of fee-based capital projects versus debt-based capital projects. Often there is a balance of both. The most recent rates adopted included the consideration of issuing debt for capital improvements as well as meeting the financial policy of the utilities.

As a result of flooding events in the community, the City recognized a need to deliver infrastructure and complete a feasibility study. The recent flooding events had an impact on the cash balances of the Stormwater fund. In order to advance the Killip Detention Basin in cooperation with the Flagstaff Unified School District and to complete a feasibility study quickly, financing was determined as the best approach allow the projects to move forward.

Working with our Financial Advisor this year, they identified an opportunity to refinance some existing loans with WIFA for a more favorable interest rate. There is up to $5,765,000 allowed to be paid off with WIFA and replaced with a private placement revenue obligation. The City will only consider financing if there is a favorable cost savings.

While the purpose of this agenda items is to approve an ordinance to allow the City to issue debt, we have included a draft Trust Agreement and Purchase Agreement as informational documents you may review. These documents have been reviewed by our Financial Advisors and Bond Counsel. These are materially complete however may have some changes prior to completion of the debt transactions. Final documents will be available upon request to the Management Services Director.

City staff will issue a formal request for proposals (RFP) which banks will respond to. City staff will then negotiate best and final offers prior to award.

Community Involvement:

Inform: To provide the public information related to the issuance or water and wastewater revenue obligations.

Attachments:

Ord. 2022-08
Draft Purchase Agreement
Draft Trust Agreement
Reimbursement Resolution

ORDINANCE NO. 2022-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA (1) PROVIDING FOR THE SALE AND EXECUTION AND DELIVERY PURSUANT TO ONE OR MORE UTILITY SYSTEM REVENUE TRUST AGREEMENTS OF UTILITY SYSTEM REVENUE AND REVENUE REFUNDING OBLIGATIONS, IN ONE OR MORE SERIES, EVIDENCING PROPORTIONATE INTERESTS OF THE OWNERS THEREOF IN INSTALLMENT PAYMENTS OF THE PURCHASE PRICE TO BE PAID BY THE CITY OF FLAGSTAFF, ARIZONA, PURSUANT TO ONE OR MORE UTILITY SYSTEM REVENUE PURCHASE AGREEMENTS TO FINANCE AND/OR REFINANCE COSTS OF CERTAIN IMPROVEMENTS TO THE WATER, WASTEWATER AND STORMWATER UTILITY SYSTEM OF THE CITY; (2) AUTHORIZING THE COMPLETION, EXECUTION AND DELIVERY WITH RESPECT THERETO OF AGREEMENTS NECESSARY OR APPROPRIATE AS PART OF FINANCING AND/OR REFINANCING THE COSTS OF SUCH IMPROVEMENTS AND PAYING RELATED FINANCING COSTS; (3) DELEGATING TO THE MAYOR, THE CITY MANAGER AND THE MANAGEMENT SERVICES DIRECTOR CERTAIN AUTHORITY WITH RESPECT TO THE PURPOSES HEREOF; (4) AUTHORIZING THE MANAGEMENT SERVICES DIRECTOR TO EXPEND ALL NECESSARY FUNDS THEREFOR; AND (5) AUTHORIZING THE MANAGEMENT SERVICE DIRECTOR OR HIS DESIGNEES TO TAKE ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS ORDINANCE AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff, Arizona (the "City") has incurred loan agreements (the amounts of such loan agreements to be prepaid as provided herein are collectively referred to herein as the "Obligations Being Prepaid") with the Water Infrastructure Finance Authority of Arizona to finance certain costs of certain improvements for the water utility system of the City (the "Existing Projects"); and

WHEREAS, it is necessary and in the best interests of the City to (i) refinance all or a portion of the Obligations Being Prepaid, and (ii) finance the costs of certain improvements for the water, wastewater and stormwater utility system of the City (the "New Projects" and, collectively with the Existing Projects, the "Projects"); and

WHEREAS, therefore, the Mayor and Council of the City (the "Council") have determined to cause the execution and delivery of one or more Utility System Revenue Purchase Agreements, to be dated as of the first day of the month of the dated date of the related hereinafter described Series 2022 Obligations (referred to herein as the "Purchase Agreement"), in substantially the form presented at the meeting at which this Ordinance was adopted, by which the City will agree to purchase the portion of the Existing Projects which have not been paid to date and the New Projects; and

WHEREAS, financing and refinancing the costs of the Projects will be accomplished through the

sale, by means of a competitively bid solicitation for financing, and execution and delivery of certain proportionate interests (the "Series 2022 Obligations") in the Purchase Agreement pursuant to, and secured by, one or more Utility System Revenue Trust Agreements, to be dated as of the date of the related Purchase Agreement (referred to herein as the "Trust Agreement"), from the City to a trustee to be determined as provided herein (including any successor appointed and acting in such capacity, the "Trustee"), in substantially the form presented at the meeting at which this Ordinance was adopted; and

WHEREAS, it has been determined that Stifel, Nicolaus & Company, Incorporated (the "Financial Advisor") should act as financial advisor with respect to the sale of the Series 2022 Obligations pursuant to letter agreements between the City and the Financial Advisor; and

WHEREAS, there have been presented to the Council at the meeting at which this Ordinance is being adopted the proposed forms of: (1) the Purchase Agreement; and (2) the Trust Agreement; and

WHEREAS, the City has the requisite power and authority to execute and deliver the Purchase Agreement and to cause the sale and execution and delivery of the Series 2022 Obligations, and all acts, conditions and things required by the Constitution and laws of the State of Arizona and the requirements of the City to happen, exist and be performed precedent to and as a condition to the adoption of this Ordinance have happened, exist and been performed in the time and manner required to make the Purchase Agreement a valid and binding limited, special obligation of the City.

ENACTMENTS:

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

SECTION 1. Authorization and Execution and Delivery of Documents and Series 2022 Obligations; Acceptance of Proposal(s).

(a) For the purpose of providing funds to finance and refinance the costs of the Projects and the related costs of the sale and execution and delivery of the Series 2022 Obligations, the Series 2022 Obligations shall be sold and executed and delivered in one or more series as provided herein. Each series of the Series 2022 Obligations shall be dated the date of their initial authentication and delivery, shall be executed and delivered in such form and denominations, shall be payable as to interest and principal on such dates, shall be executed in such manner and shall have such other provisions, including, without limitation, provisions with respect to prepayment prior to maturity, as set forth in the applicable form of the Trust Agreement, with such additions, deletions and modifications consistent with this Ordinance as shall be approved by the officers of the Trustee executing and delivering the same on behalf of the Trustee, the execution and delivery thereof to constitute conclusive evidence of their approval and of such additions, deletions or modifications. The identity of the Trustee, the aggregate principal amount of the Series 2022 Obligations (but not to exceed $4,100,000 with respect to the financing of the New Projects), the number of series the Series 2022 Obligations shall be and the amount and designation of each such series, the period over which the Series 2022 Obligations shall mature (including provisions for prepayment), whether the Series 2022 Obligations shall be executed and delivered pursuant to one or more Purchase Agreements and Trust

Agreements, whether to proceed with the refinancing of the Existing Projects and, if so, the exercise of prepayment provisions with respect to the Obligations Being Prepaid; the date on, entity or entities to which and price at which each series of the Series 2022 Obligations shall be sold (including provisions for any discount or premium), and the rates of interest the Series 2022 Obligations shall bear (but, except in the case of an event of default or an event of taxability, not to exceed five percent (5%)) and the dates such interest shall be payable shall be determined by the Mayor, the City Manager or the Management Services Director of the City or the designees of any of them (collectively, the "Authorized Representatives") to which such authority is hereby delegated; provided, however, that if the refinancing of the Existing Projects proceeds in accordance with the foregoing direction, such refinancing must result in a present value debt service savings net of all costs, of two percent of the principal amount of the Obligations Being Prepaid.

(b) The Mayor or, in the absence thereof, the Vice Mayor are hereby authorized to execute, and the Clerk is hereby authorized to attest and deliver, respectively, the Purchase Agreement and the Trust Agreement (multiple of each, if necessary, in accordance with the direction delegated by paragraph (a) of this Section), as well as, if necessary, an Escrow Trust Agreement, to be dated as of the first day of the month of the dated date of the Series 2022 Obligations (the "Escrow Trust Agreement"), with the Trustee, in its separate capacity as escrow trustee (the "Escrow Trustee"), for the establishment of an escrow to defease the Obligations Being Prepaid, in a standard form, all of which are hereby approved, with such additions, deletions and modifications as shall be approved by those officers executing and delivering the same on behalf of the City, the execution and delivery thereof to constitute conclusive evidence of their approval, and of such additions, deletions and modifications.

(c) The Trustee is hereby requested to execute and deliver the Series 2022 Obligations (in one or more series), the Purchase Agreement and the Trust Agreement (multiple of each, if necessary, in accordance with the direction delegated by paragraph (a) of this Section), and the Escrow Trustee is hereby requested to execute and deliver, if necessary, the Escrow Trust Agreement.

(d) The Authorized Representatives are hereby authorized to cause the sale and execution and delivery of the Series 2022 Obligations and are hereby delegated the authority to complete any information missing in, or necessary for the consummation of the transactions contemplated by, the Purchase Agreement and the Trust Agreement. The Authorized Representatives are authorized to select, and execute and deliver contracts with, appropriate professionals (including special counsel) to provide various professional services with respect to the sale and execution and delivery of the Series 2022 Obligations as well as to provide for such other matters (including credit enhancement providers if deemed advantageous by them) as are necessary in order to accomplish the purposes of this Ordinance. The Authorized Representatives are hereby further authorized to execute and deliver any instruments or documents necessary in connection with the purchase of any such credit enhancement, including those making provision for the repayment of amounts advanced for credit enhancement thereunder. The fees, costs and expenses with respect to the foregoing shall be paid from proceeds of the sale of the Series 2022 Obligations or any other legally available moneys. The Management Services Director is hereby authorized to receive and expend such funds as necessary to accomplish the purposes of this Ordinance, including payment of installment payments related to debt service on the Series 2022 Obligations.

(e) Subject to the direction delegated by paragraph (a) of this Section, the proposal(s) of the purchaser(s) determined as provided in such paragraph may be accepted. The Series 2022 Obligations shall be prepared and executed and delivered following the adoption of this Ordinance and shall thereupon be delivered to such purchaser(s) upon payment therefor in accordance with the terms of the Trust Agreement.

SECTION 2. Severability

If any section, paragraph, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be illegal or unenforceable, such decision will not affect the validity of the remaining portions of this Ordinance. This Council hereby declares that it would have adopted this Ordinance and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the issuance of the Series 2022 Obligations pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Ordinance may be held illegal, invalid or unenforceable.

SECTION 3. Ratification of Actions

All actions of the officers, employees and agents of the City, including the Council, which conform to the purposes and intent of this Ordinance and which further the actions contemplated by this Ordinance, whether taken before or after adoption of this Ordinance, are hereby ratified, confirmed and approved. The Management Services Director of the City or his designee(s) are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the City as may be necessary to carry out the terms and intent of this Ordinance.

SECTION 4. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 19th day of April, 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CERTIFICATION

I hereby certify that the foregoing Ordinance No. 2022-08 was duly passed and adopted by the Mayor and Council of the City of Flagstaff, Arizona, at a regular meeting held on the 19th day of April 2022, and the vote was …….. ayes and …….. nays and that the Mayor and ……. Councilmembers were present thereat.

.....
Stacy Saltzburg, City Clerk, City of Flagstaff, Arizona

DRAFT
02/21/22

SERIES 2022 UTILITY SYSTEM REVENUE PURCHASE AGREEMENT

by and between

_____,
as Seller

and

THE CITY OF FLAGSTAFF, ARIZONA,
as Purchaser

Dated as of _____ 1, 2022

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SERIES 2022 UTILITY SYSTEM REVENUE PURCHASE AGREEMENT

THIS SERIES 2022 UTILITY SYSTEM REVENUE PURCHASE AGREEMENT, dated as of _____ 1, 2022 (this "Agreement"), by and between _____, a national banking association, authorized to exercise trust powers in the State of Arizona, as trustee under the Series 2022 Utility System Revenue Trust Agreement, dated as of even date herewith (the "Trust Agreement") but in its separate capacity as seller, and THE CITY OF FLAGSTAFF, ARIZONA, a municipal corporation of the State of Arizona, as purchaser,

W I T N E S S E T H:

WHEREAS, pursuant to Ordinance No. 2022-__ adopted on April 19, 2022, the Mayor and Council of the City (as such term and all other undefined terms used herein are defined in the Trust Agreement) determined that the Series 2022 Obligations be sold and executed and delivered; and

WHEREAS, pursuant to the Trust Agreement, the Trustee has caused deposits to be made to the Improvements Fund and the Delivery Costs Fund and a transfer to be made to WIFA; and

WHEREAS, the City is a municipal corporation duly incorporated and validly existing under the laws of the State; the Constitution and the laws of the State authorize the City to enter into this Agreement and the transactions contemplated by this Agreement; the City has duly authorized and executed this Agreement; this Agreement is a lawful, valid and binding obligation of the City, enforceable against the City in accordance with its terms; all required procedures for execution and performance of this Agreement, including publication of notice, public hearing or competitive bidding, if applicable, have been or will be complied with in a timely manner; the Payments will be paid when due out of funds which are legally available for such purposes; neither the execution and delivery of this Agreement or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the City; the City has disclosed in writing to the Seller all facts that do or will materially adversely affect the properties, operations or financial condition of the City and that any financial statements, notices or other written statements provided by the City to the Seller pursuant hereto will not contain any untrue statement of a material fact or omit any material fact necessary to make such statements or information not misleading and the Projects comply with all applicable environmental laws, rules and regulations (including, without limitation, all federal, state and local laws) and with Title III of the Americans with Disabilities Act and the regulations issued thereunder by the United States Department of Justice concerning accessibility of places of public accommodation and commercial facilities if and to the extent such Act and regulations apply to the Projects; and

WHEREAS, the Seller has full legal authority and is duly empowered to enter into this Agreement and has taken all actions necessary to the execution and delivery hereof;

NOW, THEREFORE, pursuant to law and for and in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

ARTICLE I
APPLICATION OF PROCEEDS OF SERIES 2022 OBLIGATIONS

Section 1.1 Refinancing; Improvements Fund.

(a) Amounts transferred by the Trustee to WIFA shall be applied to defease the Obligations Being Prepaid.

(b) (i) The City shall establish and maintain a separate fund known as the *"Improvements Fund,"* which shall be funded from amounts paid by the Trustee pursuant to Article V of the Trust Agreement. Amounts in the Improvements Fund shall be disbursed by the City for the following purposes and for no other purposes:

(A) to the extent not paid by the Trustee from the Delivery Costs Fund established under the Trust Agreement, Delivery Costs; and

(B) payment for labor, services, materials and other necessities used or furnished in the acquisition, improvement and construction of the New Projects, and all real and personal property deemed necessary in connection with the New Projects and for the miscellaneous expenses incidental to any of the foregoing including the premium on each performance and payment bond.

(ii) Before any of the foregoing payments may be made, the City shall maintain a record with respect to each such payment to the effect that: (X) none of the items for which the payment is proposed to be made has formed the basis for any payment previously made from the Improvements Fund, (Y) each item for which payment is proposed to be made is or was necessary in connection with the Projects and (Z) each item for which payment is proposed is for a purpose permitted by this Section.

(iii) In the case of any contract providing for the retention of a portion of the contract price, there shall be paid from the Improvements Fund only the net amount remaining after deduction of any such portion.

The City shall notify the Trustee of the completion date of the New Projects by a certificate signed by the City Representative stating that acquisition, construction and improvement of the New Projects has been completed and all obligations and costs in connection with the New Projects and payable out of the Improvements Fund have been paid and discharged, except for amounts retained by the City for payment of costs of the New Projects not yet due and payable. Any moneys held in the Improvements Fund upon delivery of such certificate which are not needed to pay costs of the New Projects shall be transferred by the City to the Trustee for deposit to the Interest Account.

ARTICLE II
AGREEMENTS OF SALE; PURCHASE PRICE

Section 2.1 Agreements of Sale.

(a) In order to finance the costs of the New Projects, the Seller hereby sells and conveys to the City, without recourse, representation or warranty, and the City hereby purchases for the amounts payable pursuant hereto and accepts, from the Seller, any interests the Seller has in the New Projects.

(b) In order to refinance the costs of the Existing Projects which have not be paid to date, the City hereby sells and conveys any interests it has in the Existing Projects to the Seller, without recourse, representation or warranty, for the sum of $10.00 and other valuable consideration had and received. The Seller in turn hereby sells and conveys back to the City, without recourse, representation or warranty, and the City hereby purchases for the amounts payable pursuant hereto and accepts, from the Seller, such interests the Seller has in the Existing Projects.

Section 2.2 Possession of and Title to Projects. The City shall be entitled to possession of, and full and unencumbered title to, the Projects, without suit, trouble or hindrance from the Seller. The Projects shall be made a part of the System and shall be used in accordance with all applicable laws.

Section 2.3 Amounts Payable After Execution and Delivery of Series 2022 Obligations Including for Purchase Price. After paying any amounts due to the Trustee pursuant to the Trust Agreement, Net Revenues provided for by Section 3.1 shall be paid for the following purposes and in the following order of priority, after decreasing any such payment for any interest income or gain received, or increasing such payment for any loss realized, during the preceding month in the account to which such payment is to be deposited:

(i) Amounts due pursuant to Section 7.2(d)(ii).

(ii) Commencing on _____ 1, 20__, and each _____ 1 and _____ 1 thereafter, the portion of each installment designated as interest on the Series 2022 Obligations and coming due during the six-month period (or portion thereof) preceding the next Obligation Payment Date for deposit to the Interest Account, calculated as described in Section 2.2(a) of the Trust Agreement.

(iii) Commencing on July 1, 20__, and each July 1 thereafter, the principal coming due (whether because of maturity or mandatory prepayment) with respect to the Series 2022 Obligations on the next Obligation Payment Date for deposit to the Principal Account.

This Agreement shall be deemed and construed to be a *"net purchase agreement,"* and the payments provided for in this Section shall be an absolute net return to the Seller, free and clear of any expenses or charges whatsoever, except as otherwise specifically provided herein.

Section 2.4 Obligations of City Hereunder Unconditional. The obligations of the City to make the payments required in Section 2.3 and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, regardless of the continued existence of the Projects or their physical condition. The City (a) shall not diminish, suspend or discontinue any payments provided for in Section 2.3, (b) shall perform and observe all of its other agreements contained in this Agreement and (c) shall not terminate this Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, loss, theft or destruction of or damage to the Projects, or any part thereof, frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof, or any failure of the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement. Nothing contained in this Section shall be construed to release the Seller from the performance of any of the agreements on its part herein contained, and in the event the Seller shall fail to perform any such agreement on its part, the City may institute such action against the Seller as the City may deem necessary to compel performance or recover its damages for non-performance so long as such action shall not violate or impair the effectiveness of the agreements on the part of the City contained in the next two preceding sentences. The City may, however, at its own cost and expense and in its own name or in the name of the Seller, prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect its rights of ownership, possession and use hereunder, and in such event the Seller hereby agrees to cooperate fully with the City and to take all action necessary to effect the substitution of the City for the Seller in any such action or proceeding if the City shall so request.

Section 2.5 Termination of Payment of Purchase Price; Excess Payments.

(a) Upon full payment or provision for payment of the Purchase Price and provided that the City has performed all the covenants and agreements required by the City to be performed hereunder, this Agreement shall cease and expire. Upon the expiration of this Agreement, the Seller shall cause the Trustee under the Trust Agreement to release any interest which the Trustee may have in Net Revenues from the lien of the Trust Agreement.

(b) In the event of payment of the Purchase Price in full or provision for the payment thereof in full such that the Trust Agreement shall be discharged by its terms as a result of such prepayment and payment of any fees and charges due and owing to the Trustee, all amounts then on deposit in the Obligation Fund shall be credited toward the amounts then required to be so prepaid at the direction of the City Representative. Upon the payment thereof in accordance with the Trust Agreement such that the Trust Agreement shall be discharged by its terms, any money remaining which is not otherwise required to be applied to the payment of debt service on the Series 2022 Obligations or to the payment of any other amounts due under the Trust Agreement shall be paid over to the City.

Section 2.6 Prepayment of Purchase Price Generally. The City shall be permitted to prepay all or a part of the Purchase Price to the extent and in the manner permitted by the Trust Agreement. If such prepayment is made in compliance with the terms of the Trust Agreement, the Trustee shall accept such prepayment to the extent required to provide for a permitted

prepayment or provision for payment of such Series 2022 Obligations as shall be directed by the City. No other prepayment of the Purchase Price shall be permitted. In the event of prepayment of the Purchase Price in full or provision for the payment thereof in full such that the Trust Agreement shall be discharged by its terms as a result of such prepayment, all amounts then on deposit in the Obligation Fund shall be credited toward the amounts then required to be so prepaid. Upon the payment thereof in accordance with the Trust Agreement such that the Trust Agreement shall be discharged by its terms, any money remaining in the Obligation Fund which is not otherwise required to be applied to the payment of debt service on Obligations or to the payment of any other amounts due under the Trust Agreement shall be paid over to the City.

Section 2.7 Effect of Partial Payment or Prepayment. Upon any partial payment or prepayment of the Purchase Price resulting in a prepayment of Series 2022 Obligations, each installment of interest which shall thereafter be payable as a part of the Purchase Price shall be reduced, taking into account the interest rate or rates on the Series 2022 Obligations remaining outstanding after the prepayment of Series 2022 Obligations from the proceeds of such partial payment or prepayment so that the interest remaining payable as a part of the Purchase Price shall be sufficient to pay the interest on such outstanding Series 2022 Obligations when due.

ARTICLE III
SOURCE OF PURCHASE PRICE; RATE COVENANT; PARITY OBLIGATIONS

Section 3.1 Limitation of Source of City Payments.

(a) This Agreement is a limited, special obligation of the City, payable solely and secured as to the payment in accordance with the terms and the provisions hereof.

(b) All payments with respect hereto shall be made only from Net Revenues as hereinafter provided. Nothing, however, shall preclude the City, in the sole and absolute discretion of the Mayor and Council of the City, from paying such amounts from other moneys of the City. Under no circumstances shall amounts paid under this Agreement from such moneys (other than Net Revenues) constitute a pledge thereof, and amounts payable by the City hereunder shall never constitute a general obligation of the City or a pledge of *ad valorem* property taxes by the City.

(c) Net Revenues are hereby pledged by the City to the payment of all amounts due under this Agreement, and the repayment of such amounts shall be secured by a lien on and pledge of Net Revenues on parity with the pledge and lien granted by the City for the payment and security of the Outstanding Parity Obligations and Additional Parity Obligations **(the definition of "System" in the Outstanding Parity Obligations shall, upon execution and delivery of this Agreement, be treated as identical to the definition provided in the Trust Agreement, the primary change being inclusion of "stormwater" in the definition of System, and the pledge of Net Revenues for the payments due pursuant to each of the Outstanding Parity Obligations is hereby expanded to include the additional revenues added to the Net Revenues as a result of including "stormwater" in the definition of System)**. The amounts due under this Agreement, the Outstanding Parity Obligations and

Additional Parity Obligations shall be equally and ratably secured by said pledge and lien without one having priority over the other. The City intends that this pledge shall be a prior and paramount lien on and a first pledge of Net Revenues as will be sufficient to make all payments on this Agreement, and the City covenants to make the payments under this Agreement from Net Revenues, except to the extent that it chooses to make such payments from other legally available funds at its sole option. In no event shall the City be required to make the payments on this Agreement from any revenues, receipts or sources not derived from Net Revenues.

(d) All Net Revenues shall be immediately subject to such pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all persons having claims of any kind in tort, contract or otherwise against the City, irrespective of whether such persons have notice thereof. Nothing contained in this Section shall be construed as limiting any authority granted elsewhere herein to incur the Outstanding Parity Obligations, this Agreement or Additional Parity Obligations nor be deemed a limitation upon the issuance of bonds, notes or other obligations under any law pertaining to the City secured by moneys, income and funds other than Net Revenues and other moneys and investments pledged hereunder or under the Trust Agreement. After the application of Net Revenues for the purposes herein and in the Trust Agreement, they may be used for any lawful purpose.

Section 3.2 Rate Covenant. The City will establish, maintain and collect user rates, fees and charges from all persons using the System sufficient at all times, after making due and reasonable allowance for contingencies and for a margin of error in the estimates, to carry on the efficient operation, maintenance, repairs and replacement of the System, to produce an amount of Net Revenues in each fiscal year in an amount not less than one hundred twenty percent (120%) of the aggregate of the amounts payable pursuant to the Outstanding Parity Obligations, this Agreement and any Additional Parity Obligations in such fiscal year and to maintain any required reserves and other required fund balances with respect to all such obligations, if any.

Section 3.3 Additional Parity Obligations Generally. Additional Parity Obligations having a lien upon and payable from Net Revenues may be issued or incurred on parity with this Agreement, but only as provided herein and only to provide funds for any purpose relating to the System which is permitted by law, subject to the following conditions:

(a) The City will not, at the time of the issuance or incurrence of such Additional Parity Obligations, be in default under the Outstanding Parity Obligations, this Agreement or Additional Parity Obligations or under any resolution related thereto or providing for the issuance thereof or any related credit or reserve fund credit instrument (including Purchase Events of Default and Trust Agreement Events of Default) and

(b) The annual Net Revenues for the twelve (12) consecutive months ending with the calendar month next preceding the date of the adoption by the Mayor and Council of the City of the ordinance or resolution authorizing the issuance or incurrence and sale of the Additional Parity Obligations, or for the last full fiscal year preceding the adoption of such ordinance or resolution, as shown by an audit certificate of an independent public accountant employed by the City, and which may be adjusted to reflect projected Net Revenues as described below, are equal to at least 120 percent of Maximum Annual Debt Service. Net Revenues for such fiscal year or 12-month period (as shown on such audit certificate) may be adjusted to

reflect projected annual Net Revenues on a *pro forma* basis, as stated by the report of an independent engineer or firm of such engineers having a favorable reputation with respect to such matters. In preparing such projection, Net Revenues may be adjusted by such engineer or firm (i) for rate increases for the System service which have been adopted by the Mayor and Council of the City as of the date of issuance or incurrence of such Additional Parity Obligations and which are scheduled to be in effect during all subsequent years in which such debt service or payments are due; (ii) for additional Net Revenues attributable to additions or acquisitions to the System completed subsequent to the commencement of the fiscal year or 12-month period covered by the audit certificate, but prior to the issuance or incurrence of such Additional Parity Obligations and (iii) for additional Net Revenues attributable to properties or facilities or a utility undertaking to be acquired or added to the System and financed from the proceeds of the Additional Parity Obligations or other sources of funds which are identified by the City at the time of the projections. For purposes hereof, in determining the debt service or other amounts payable in a year with respect to obligations which bear interest at a rate which varies or fluctuates from time to time, interest shall be calculated at a rate which is 125 percent of the greater of (i) the rate per annum which was in effect with respect to such obligations on the last business day of the calendar month preceding the date on which the calculation is to be made or, if no rate was in effect on such date, the rate per annum which was in effect on the date on which the calculation is to be made or (ii) the weighted average rate per annum for the most recent twelve (12) full calendar months or for such lesser period as such obligations have been outstanding.

ARTICLE IV
COVENANTS REGARDING THE SYSTEM, MAINTENANCE, INVESTMENTS AND TAXES

Section 4.1 Maintenance of the System in Good Condition. All maintenance and repair of the Projects and utilities therefor shall be the responsibility of the City. (In exchange for the payment of the amounts due hereunder, the Seller shall provide nothing more than the Projects.) The City shall (a) maintain the System in good and working condition, (b) operate the same in a proper and economical manner and at reasonable cost and (c) faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State.

Section 4.2 Insurance. The City shall maintain insurance on the System (which may take the form of or include an adequately-funded program of self-insurance), for the benefit of the Owner or Owners of the Series 2022 Obligations payable wholly or in part from the Revenues, for the full insurable value of all buildings and machinery and equipment therein, against loss or damage by fire, lightning, tornado or winds, and all other combustible property against loss or damage by fire or lightning, and other coverages and amounts of insurance (including public liability and damage to property of others to the extent deemed prudent by the City), normally carried by others on similar operations. The cost of such insurance may be paid as an Operation and Maintenance Expense. All money received for losses under any such insurance policies, except public liability policies, is hereby pledged by the City as security for the payment of this Agreement until and unless such proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, including repairing the System.

Self-insurance may be maintained for the System either separately or in connection with any general self-insurance retention program or other insurance program maintained by the City; provided that (a) any such program has been adopted by the City and (b) an independent insurance or actuarial consultant appointed by the City annually reviews and certifies to the City in writing that any such program is adequate and actuarially sound. All proceeds of any condemnation awards with respect to the System shall be deposited with the Trustee and applied to the *pro rata* payment of the Series 2022 Obligations.

Section 4.3 No Sale; Lease or Encumbrance Exceptions.

(a) The City shall not sell, lease, encumber or in any manner dispose of the System as a whole until all of the Series 2022 Obligations and all interest thereon shall have been paid in full or provision for payment has been made in accordance with the Trust Agreement.

(b) The City may sell, lease or otherwise dispose of any of the property comprising a part of the System if such property is not necessary for the operation of the System, such property is not useful in the operation of the System, such property is not profitable in the operation of the System or the disposition of such property will be advantageous to the System and will not adversely affect the security for the Owners of the Series 2022 Obligations or the payment of the principal or interest components of the Series 2022 Obligations.

(c) The City may sell or otherwise transfer the System as a whole to any political subdivision or agency of one or more political subdivisions of the State to which may be delegated the legal authority to own and operate the System on behalf of the public, and which undertakes in writing, filed with the Management Services Director, the City's obligations hereunder; provided that there shall be first filed with the Management Services Director a Special Counsel's Opinion to the effect that such sale will not cause interest on any of the Series 2022 Obligations to become subject to federal income taxation, such sale will not materially diminish the security of the Owners of the Series 2022 Obligations and the obligations of the City hereunder have been validly assumed by such transferee and are the valid and legally binding obligations of such transferee.

(d) Notwithstanding the above provisions, the City may sell or lease all or any part of the System in connection with the issuance of Additional Parity Obligations to finance additional improvements to the System or refinance the Series 2022 Obligations or Additional Parity Obligations provided that such sale or lease does not permit foreclosure, or other loss by the City, of such portion of the System.

Section 4.4 Books, Records and Accounts. The City shall cause to be kept proper books, records and accounts of the System in accordance with standard accounting practices and procedures customarily used for systems of similar nature.

Section 4.5 Satisfaction of Liens. The City shall, from time to time, duly pay and discharge or cause to be paid and discharged all taxes, assessments and other governmental charges, if any, lawfully imposed upon the System or any part thereof or upon Net Revenues, as well as any lawful claims for labor, materials or supplies which if unpaid might by law become a lien or charge upon the System or the revenues or any part thereof or which might impair the

security or payment of the Series 2022 Obligations, except when the City in good faith contests its liability to pay the same.

Section 4.6 Disconnection of Service for Non-Payment; No Free Service.

(a) The City shall diligently enforce payment of all bills for services supplied by the System. If a bill becomes delinquent and remains so for a period to be determined in accordance with City policy from time to time, the City shall discontinue service in accordance with the laws of the State to any premises the owner or occupant of which shall be so delinquent, and will not recommence such service to such premises until all delinquent charges with penalties shall have been paid in full or provisions for such payment satisfactory to the City shall have been made. The City shall do all things and exercise all remedies reasonably available to assure the prompt payment of charges for all services supplied by the System.

(b) No free service shall be furnished by the System to the City or any department thereof or to any person, firm or corporation, public or private, or to any public agency or instrumentality, except as provided herein. The reasonable cost and value of all service rendered to the City and its various departments by the System shall be charged against the City and will be paid for as the service occurs from the City's current funds. All payments so made shall be considered Operating Revenues and shall be applied in the manner herein provided for the application of the Revenues of the System.

Section 4.7 No Competing System. The City shall not, to the extent permitted by law, grant a franchise or permit for the operation of any competing system in the City.

Section 4.8 Taxes. All taxes of any type or nature charged to the Seller or affecting the Projects or affecting the amount available to the Seller from payments received hereunder for the payment of the Series 2022 Obligations (including charges assessed or levied by any governmental agency, district or corporation having power to levy taxes) shall upon receipt of invoices therefor be paid by the City. Upon written request of the City, the Seller shall take whatever steps are necessary to contest the amount of tax, or to recover any tax paid if the City believes such tax or assessment to be improper or invalid. The City shall reimburse the Seller for any and all costs, including reasonable attorneys' fees and expenses, thus incurred by the Seller.

Section 4.9 Conflicts with Outstanding Parity Obligations To the extent of any conflict between the provisions of this Article and those of the Outstanding WIFA Parity Obligations, the provisions of the Outstanding WIFA Parity Obligations shall prevail so long as amounts remain unpaid or unprovided for pursuant to the Outstanding WIFA Parity Obligations.

ARTICLE V
INDEMNIFICATION

To the extent permitted by law, the City hereby indemnifies and holds the Seller, its directors, officers, agents, attorneys and employees, harmless for, from and against any and all claims, expenses, liens, judgments, liability or loss whatsoever, including reasonable legal fees and expenses, relating to or in any way arising out of (a) this Agreement, the Trust Agreement,

financing statements, supplements, amendments or additions thereto or the enforcement of any of the terms thereof; (b) the Series 2022 Obligations; (c) the sale and execution and delivery of the Series 2022 Obligations or the transactions contemplated in any of the aforementioned acts, agreements or documents; or (d) the acquisition, purchase, ownership, lease, possession, rental, use, operation, sale or disposition of the Projects hereunder or in connection herewith (including, without limitation, expense, liability or loss relating to or in any way arising out of injury to persons, property or the environment, patent or invention rights or strict liability in tort). The right of the Seller to indemnification from the City shall not extend to claims, suits and actions successfully brought against the Seller for, or losses, liabilities or expenses incurred as a result of, the negligence, or willful misconduct of the Seller. To the extent that the City makes or provides for payment to the satisfaction of the Seller under the indemnity provisions hereof, the City shall be subrogated to the rights of the Seller with respect to such event or condition and shall have the right to determine the settlement of claims thereon, it being agreed that, except to the foregoing extent, the Seller shall have the right to determine such settlement. The City shall pay all amounts due hereunder promptly upon notice thereof from the Seller. In case any action, suit or proceeding is brought against the Seller, if any, by reason of any act or condition which requires indemnification by the City hereunder, the Seller shall notify the City promptly of such action, suit or proceeding, and the City may (and shall upon the request of the Seller), at the expense of the City, resist and defend such action, suit or proceeding, or cause the same to be resisted and defended, by counsel designated by the City and approved by the Seller. If the Seller desires to participate in the defense of such action, suit or proceeding through its own counsel, it may do so at its own expense; provided, however, that the fees and expenses of such counsel shall be paid by the City if (i) the employment of such counsel has been authorized by the City or, (ii) the City shall have failed promptly after receiving notice of such action from the Seller to assume the defense of such action and employ counsel reasonably satisfactory to the Seller or (iii) the named parties to any such action (including any impleaded parties) include the Seller and the City, and the Seller shall have been advised by counsel that there may be one or more legal defenses available to such party which are different from or in addition to those available to the City or (iv) the Seller shall have been advised by counsel that there is a conflict on any issue between the Seller and the City. The Seller, its directors, officers, agents, attorneys, and employees, shall not be liable to the City or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in connection with the Projects. These indemnity provisions shall survive the satisfaction and expiration of this Agreement and the Trust Agreement and the earlier removal or resignation of the Seller as Trustee.

ARTICLE VI
DEFAULT AND REMEDIES

Section 6.1 Purchase Events of Default. Any one or more of the following events (herein called *"Purchase Events of Default"*) shall constitute a default hereunder:

(a) failure by the City to pay, or cause to be paid, when due any payment due pursuant to Section 2.3(ii), (iii) or (iv);

(b) failure by the City to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest with respect to any bonds, notes or other obligations of the City for borrowed money (other than as described in paragraph (a) of this Section), after giving effect to the applicable grace period, the payments of which are secured by Net Revenues;

(c) failure by the City to perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Agreement, other than as referred to in paragraph (a) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the City by the Seller, provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, it shall not be deemed a Purchase Event of Default so long as the City diligently tries to remedy the same and such failure does not continue for a period of more than 60 days;

(d) the institution of any proceeding, with the acquiescence of the City, for the purpose of effecting a composition between the City and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from Net Revenues;

(e) a determination that any material representation made by or on behalf of the City contained in this Agreement, or in any instrument furnished in compliance with or reference to this Agreement, is false or misleading in any material respect; and

(f) the filing of a petition by or against the City under any federal of state bankruptcy or insolvency law or other similar law in effect on the date of this Agreement or thereafter enacted, unless in the case of any such petition filed against the City such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the City becoming insolvent or bankrupt or making an assignment for the benefit of its creditors; or the appointment of a custodial (including, without limitation, a receive, liquidator or trustee of the City or any of its property including the System) by court order, or possession of the City or its property or assets is taken if such order remains in effect or such possession continues for more than thirty (30) days.

Section 6.2 Remedies on Default by City. Whenever a Purchase Event of Default shall have occurred and be continuing, the Seller shall, but only if requested by the Trustee, have the right to take any action permitted or required pursuant to this Agreement and to take whatever other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due on their scheduled payment dates or to enforce the performance and observance of any duty, covenant, obligation or agreement of the City hereunder, including, without limitation, appointment of a receiver of the System, however, under no circumstances may amounts due hereunder be accelerated. The Seller may assign any or all of its rights and privileges under this Section to the Trustee, and upon furnishing evidence of such assignment to the City, the Trustee may exercise any or all of such rights or privileges as it may deem advisable.

Section 6.3 Default by Seller. The Seller shall in no event be in default in the performance of any of its obligations hereunder unless and until the Seller shall have failed to perform such obligation within thirty (30) days or such additional time as is reasonably required to correct any such default after notice by the City to the Seller properly specifying wherein the Seller has failed to perform any such obligation. No default by the Seller shall relieve the City of its obligations to make the various payments herein required, so long as any of the Series 2022 Obligations remain Outstanding; however, the City may exercise any other remedy available at law or in equity to require the Seller to remedy such default so long as such remedy does not interfere with or endanger the payments required to be made to the Trustee under the Trust Agreement.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Arizona Law to Govern; Entire Agreement.

(a) This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State as the same from time to time exist.

(b) This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or by representation to the other party with respect to the matters covered hereby which is not expressly set forth in this Agreement.

Section 7.2 Federal Tax Covenants.

(a) As provided in further detail in the Tax Certificate, no direction for the making of any investment or other use of the proceeds of any of the Series 2022 Obligations or of the Projects which would cause such Series 2022 Obligations to be "arbitrage bonds" as that term is defined in section 148 of the Code or "private activity bonds" as that term is defined in section 141 of the Code and the requirements of such sections of the Code and the related Regulations shall be complied with throughout the term of the Series 2022 Obligations. Particularly, the City shall be the owner of the Projects for federal income tax purposes. The City shall not enter into (i) any management or service contract with any entity other than a governmental entity for the operation of any portion of the Projects unless the management or service contract complies with the requirements of such authority as may control at the time or (ii) any lease or other arrangement with any entity other than a governmental entity that gives such entity special legal entitlements with respect to any portion of the Projects. Also, the payment of principal and interest with respect to the Series 2022 Obligations shall not be guaranteed (in whole or in part) by the United States or any agency or instrumentality of the United States. The proceeds of the Series 2022 Obligations, or amounts treated as proceeds of the Series 2022 Obligations, shall not be invested (directly or indirectly) in federally insured deposits or accounts, except to the extent such proceeds (i) may be so invested for an initial temporary period until needed for the purpose for which the Series 2022 Obligations are being executed and delivered, (ii) may be so used in making investments of a *bona fide* debt service fund or (iii) may be invested in obligations issued by the United States Treasury. In

consideration of the purchase and acceptance of the Series 2022 Obligations by the Owners thereof from time to time and of retaining such exclusion and as authorized by Title 35, Chapter 3, Article 7, Arizona Revised Statutes, the City covenants, and the appropriate officials of the City are hereby directed, to take all action required by the Code to preserve such exclusion or to refrain from taking any action prohibited by the Code which would adversely affect in any respect such exclusion.

(b) (i) The City shall take all necessary and desirable steps, as determined by the City Representative, to comply with the requirements hereunder in order to ensure that the interest components of the Series 2022 Obligations is excluded from gross income for federal income tax purposes under the Code; provided, however, compliance with any such requirement shall not be required in the event the City receives a Special Counsel's Opinion addressed to the City and the Trustee that either (A) compliance with such requirement is not required to maintain the exclusion from gross income of interest on the Series 2022 Obligation, or (B) compliance with some other requirement will meet the requirements of the Code relating to such exclusion. In the event the City receives such a Special Counsel's Opinion, this Utility System Purchase Agreement shall be amended to conform to the requirements set forth in such opinion.

(ii) If for any reason any requirement hereunder is not complied with, the City shall take all necessary and desirable steps, as determined by the City Representative, to correct such noncompliance within a reasonable period of time after such noncompliance is discovered or should have been discovered and the City shall pay any required interest or penalty under Regulations section 1.148-3(h).

(c) Written procedures have been established for the City to ensure that all nonqualified obligations are remediated according to the requirements under the Code and related Regulations and to monitor the requirements of section 148 of the Code relating to arbitrage, with which the City will comply.

(d) (i) Undefined terms used in this subsection shall have the meanings given to them in the Tax Certificate, the Code and the Regulations.

(ii) Unless an exception to such requirement is available to the satisfaction of the City Representative, within 60 days after the end of each Bond Year, the City shall cause the Rebate Requirement to be calculated and shall pay to the United States of America:

(A) not later than 60 days after the end of the fifth Bond Year and every fifth Bond Year thereafter, an amount which, when added to the future value of all previous rebate payments with respect to the Series 2022 Obligations (determined as of such Computation Date), is equal to at least 90 percent of the sum of the Rebate Requirement (determined as of the last day of such Bond Year) plus the future value of all previous rebate payments with respect to the Series 2022 Obligations (determined as of the last day of such Bond Year) and

(B) not later than 60 days after the retirement of the last Series 2022 Bond, an amount equal to 100 percent of the Rebate Requirement (determined as of the date of retirement of the last Series 2022 Obligation).

Each payment required to be made under this Section shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201, on or before the date such payment is due, and shall be accompanied by IRS Form 8038-T.

(iii) No Nonpurpose Investment shall be acquired for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

(iv) For purposes of subsection (iii), whether a Nonpurpose Investment has been purchased or sold or disposed of for its fair market value shall be determined as follows:

(A) The fair market value of a Nonpurpose Investment generally shall be the price at which a willing buyer would purchase the Nonpurpose Investment from a willing seller in a bona fide arm's length transaction. Fair market value shall be determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding.

(B) Except as provided in Subsection (v) or (vi), a Nonpurpose Investment that is not of a type traded on an established securities market, within the meaning of Code section 1273, is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(C) If a United States Treasury obligation is acquired directly from or sold or disposed of directly to the United States Treasury, such acquisition or sale or disposition shall be treated as establishing the fair market value of the obligation.

(v) The purchase price of a certificate of deposit that has a fixed interest rate, a fixed payment schedule and a substantial penalty for early withdrawal is considered to be its fair market value if the yield on the certificate of deposit is not less than:

(A) the yield on reasonably comparable direct obligations of the United States and

(B) the highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

(vi) A guaranteed investment contract shall be considered acquired and disposed of for an amount equal to its fair market value if:

(A) A bona fide solicitation in writing for a specified guaranteed investment contract, including all material terms, is timely forwarded to all potential providers. The solicitation must include a statement that the submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the City or any other person (whether or not in connection with the Series 2022 Obligations), and that the bid is not being submitted solely as a courtesy to the City or any other person for purposes of satisfying the requirements in the Regulations that the City receive bids from at least one reasonably competitive provider and at least three providers that do not have a material financial interest in the Series 2022 Obligations.

(B) All potential providers have an equal opportunity to bid, with no potential provider having the opportunity to review other bids before providing a bid.

(C) At least three reasonably competitive providers (i.e., having an established industry reputation as a competitive provider of the type of investments being purchased) are solicited for bids. At least three bids must be received from providers that have no material financial interest in the Series 2022 Obligations (e.g., a lead underwriter within 15 days of the issue date of the Series 2022 Obligations or a financial advisor with respect to the investment) and at least one of such three bids must be from a reasonably competitive provider. If the City uses an agent to conduct the bidding, the agent may not bid.

(D) The highest-yielding guaranteed investment contract for which a qualifying bid is made (determined net of broker's fees) is purchased.

(E) The determination of the terms of the guaranteed investment contract takes into account as a significant factor the reasonably expected deposit and drawdown schedule for the amounts to be invested.

(F) The terms for the guaranteed investment contract are commercially reasonable (i.e., have a legitimate business purpose other than to increase the purchase price or reduce the yield of the guaranteed investment contract).

(G) The provider of the investment contract certifies the administrative costs (as defined in Regulations section 1.148-5(e)) that it pays (or expects to pay) to third parties in connection with the guaranteed investment contract.

(H) The City retains until three years after the last Outstanding Series 2022 Obligation is retired, (A) a copy of the guaranteed investment contract, (B) a receipt or other record of the amount actually paid for the guaranteed investment contract, including any administrative costs paid by the

City and a copy of the provider's certification described in (G) above, (C) the name of the person and entity submitting each bid, the time and date of the bid, and the bid results and (D) the bid solicitation form and, if the terms of the guaranteed investment contract deviates from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose of the deviation.

(vii) Such experts and consultants shall be employed to make, as necessary, any calculations in respect of rebates to be made to the United States of America in accordance with section 148(f) of the Code with respect to the Series 2022 Obligations.

Section 7.3 Assignment and Pledge of Seller's Interest in Utility System Purchase Agreement. The Seller assigns, mortgages, hypothecates and pledges to the Trustee all and every part of the right, privilege and interest of the Seller in this Agreement. The City consents to such assignment, mortgage hypothecation and pledge.

Section 7.4 Recordation and Filing of Instruments. The City shall prepare all documents of every kind and description, make all filings and recordings and shall deliver all Opinions of Counsel to the Seller and to the Trustee required under any provision of the Trust Agreement.

Section 7.5 Right of Seller and Trustee to Perform City's Obligations Hereunder. In the event that the City should fail for any reason to make any payment or perform any obligation hereunder, and such failure shall continue for a period of 30 days after written notice has been given to the City by the Seller or the Trustee specifying such failure and requesting that it be remedied, the Seller or the Trustee on its behalf, may but shall not be required to make any such payment or to perform any such duty. The amount of such payment and all expenses reasonably incurred by the Seller and the Trustee in making such payment and performing such duty shall be additional items payable hereunder and shall be paid by the City immediately upon invoices by the Seller or the Trustee with interest at the Default Rate from the date said payment was due or expenses incurred to the date of payment by the City.

Section 7.6 Notices; Mailing Addresses. All notices, consents or other communications required or permitted hereunder shall be deemed sufficient if given in writing addressed and mailed by registered or certified mail, delivered, or transmitted by telecopy, telex or other electronic transmission that produces written evidence of its delivery, to the party for which the same is intended, as follows:

To the Seller: _____
_____
_____
Attention: Corporate Trust Services

To the City: City of Flagstaff, Arizona
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attention: Management Services Director

To the Trustee: _____
_____
_____
Attention: Corporate Trust Services

or to such other address as such party may hereafter designate by notice in writing addressed and mailed or delivered to the other party hereto.

Section 7.7 Amendments Hereto. This Agreement may only be amended with the express written consent of the Trustee and in accordance with the provisions of the Trust Agreement.

Section 7.8 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 7.9 Counterparts. This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed shall be deemed to be an original, but all together shall constitute but one Agreement, and it is also understood and agreed that separate counterparts of this Agreement may separately be executed by the Seller and the City, all with the same full force and effect as though the same counterpart had been executed by both the Seller and the City.

Section 7.10 Assignment by City. Neither this Agreement nor any interest of the City herein may at any time after the date hereof be mortgaged, pledged, assigned or transferred by the City by voluntary act or by operation of law or otherwise. The City shall at all times remain liable for the performance of all of the covenants and conditions on its part to be performed, notwithstanding any such action.

Section 7.11 Certain Statutory Notices.

(a) To the extent applicable by provision of law, the Seller acknowledges that this Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, the provisions of which are incorporated herein and which provides that the City may within three (3) years after its execution cancel any contract (including this Agreement) without penalty or further obligation made by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City is at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party

to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract.

(b) To the extent applicable under Section 41-4401, Arizona Revised Statutes, the Seller shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the E-verify requirements under Section 23-214(A), Arizona Revised Statutes. The breach by the Seller of the foregoing shall be deemed a material breach of this Agreement and may result in the termination of the services of the Seller by the City. The City retains the legal right to randomly inspect the papers and records of the Seller to ensure that the Seller is complying with the above-mentioned warranty. The Seller shall keep such papers and records open for random inspection during normal business hours by the Seller. The Seller shall cooperate with the random inspections by the City including granting the City entry rights onto its property to perform such random inspections and waiving its respective rights to keep such papers and records confidential. The City shall preserve the confidentiality of any information, records or papers the City views, accesses or otherwise obtains during any and every such random inspection, including, without limitation, such information.

(c) Pursuant to Section 35-393 et seq., Arizona Revised Statutes, the Seller hereby certifies it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel. The term "boycott" has the meaning set forth in Section 35-393, Arizona Revised Statutes. If the City determines that the Seller's certification above is false or that it has breached such agreement, the City may impose remedies as provided by law.

Section 7.12 Holidays. When any action is provided herein to be done on a day named or within a time period named, and the day or the last day of the period falls on a day other than a Business Day, it may be performed on the next ensuing Business Day with effect as though performed on the appointed day or within the specified period.

[Signature page follows.]

IN WITNESS WHEREOF, the City and the Seller have executed this Agreement as of the day of and year first above written.

_____, as the Seller

By.....
Authorized Representative

THE CITY OF FLAGSTAFF, ARIZONA, as purchaser

By.....
Mayor

ATTEST:

.....
Clerk

DRAFT
02/21/22

SERIES 2022 UTILITY SYSTEM REVENUE TRUST AGREEMENT

by and between

_____,
as Trustee

and

THE CITY OF FLAGSTAFF, ARIZONA,
as Purchaser

Dated as of _____ 1, 2022

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SERIES 2022 UTILITY SYSTEM REVENUE TRUST AGREEMENT

THIS SERIES 2022 UTILITY SYSTEM REVENUE TRUST AGREEMENT, dated as of _____ 1, 2022 (this "*Agreement*"), by and between THE CITY OF FLAGSTAFF, ARIZONA, a municipal corporation of the State of Arizona (the "*City*"), and _____, a national banking association, authorized to exercise trust powers in the State of Arizona, as trustee, and any successor to its duties hereunder (the "*Trustee*"),

W I T N E S S E T H:

WHEREAS, the Seller (as such term and all terms not defined hereinabove are hereinafter defined) and the City, as purchaser, have entered into the Utility System Purchase Agreement in connection with the execution and delivery of the Series 2022 Obligations to provide the deposits to the Improvements Fund and the Delivery Costs Fund and the transfer to WIFA; and

WHEREAS, for the purpose of obtaining the moneys to provide such deposits and transfer, rights pursuant to the Utility System Purchase Agreement have been assigned and transferred to the Trustee for purposes hereof, and in consideration of such assignment and the execution hereof, the Trustee has executed and delivered the Series 2022 Obligations, each evidencing a proportionate interest in certain rights pursuant to the Utility System Purchase Agreement, including the payment of the Purchase Price;

GRANTING CLAUSES

NOW, THEREFORE, in order to secure all of the Series 2022 Obligations executed and delivered pursuant hereto, the payment of principal thereof and interest thereon, the rights of the Owner of the Series 2022 Obligations and the performance and observance of the covenants and conditions contained herein and in the Series 2022 Obligations and the Utility System Purchase Agreement, the City absolutely and irrevocably pledges and assigns to the Trustee, and the Trustee shall receive and hold as security for the Owner of the Series 2022 Obligations and there shall be granted a security interest in and released, assigned, transferred, pledged, mortgaged, granted and conveyed unto the Trustee or any successor to its duties hereunder, the following described property:

A. All rights and interests in, under and pursuant to the Utility System Purchase Agreement of the Seller as assigned, mortgaged, hypothecated and pledged pursuant to the Utility System Purchase Agreement, provided that the assignment made by this clause shall not include any right to limitation of liability, indemnification of liability, payment or reimbursement of fees, costs or expenses or to give consents or approvals thereunder,

B. Amounts on deposit from time to time in the funds and accounts created pursuant hereto subject to the provisions of this Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, and

C. Any and all other real or personal property of any kind from time to time hereafter by delivery or by writing of any kind specifically conveyed, pledged, assigned or transferred, as and for additional security hereunder for the Series 2022 Obligations by the City or by anyone on its behalf or with its written consent, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof,

TO HAVE AND TO HOLD, all said properties assigned, mortgaged, hypothecated and pledged and conveyed by the Seller, including all additional property which by the terms hereof has or may become subject to the encumbrance hereof, unto the Trustee and its successors in trust and its assigns forever, subject, however, to the rights reserved hereunder,

IN TRUST, nevertheless, for the benefit and security of the Owners from time to time of the Series 2022 Obligations executed and delivered hereunder, without preference, priority or distinction as to lien or otherwise of any of the Series 2022 Obligations over any other or others of the Series 2022 Obligations; and conditioned, however, that if all liabilities, obligations and sums at any time secured hereby shall be well and truly paid, or caused to be paid fully and promptly when due, and all of the covenants, warranties and agreements contained herein shall promptly, faithfully and strictly be kept, performed and observed, then and in such event, this Agreement shall be and become void and of no further force and effect; otherwise, the same shall remain in full force and effect, and upon the trust and subject to the covenants and conditions hereafter set forth.

For such purposes, the City and the Trustee hereby agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1 Definitions. In addition to the terms defined in the first paragraph hereof and in the Recitals hereto and, unless the context otherwise requires, the following words and phrases shall have the following meanings:

"*Additional Parity Obligations*" means any additional obligations having a lien payable from Net Revenues on a parity with the Outstanding Parity Obligations and the Utility System Purchase Agreement which may hereafter be issued or incurred by the City (or any financing conduit acting on behalf of the City) in compliance with the terms of the Utility System Purchase Agreement.

"Authorized Officers" means officers authorized to provide Instructions; provided, however, that the City shall provide to the Trustee an incumbency certificate listing officers with such authority to provide such Instructions and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the City, whenever a person is to be added or deleted from the listing.

"*Bank*" means _____.

"*Bond Year*" means each one-year period beginning on the day after the expiration of the preceding Bond Year. The first Bond Year shall begin on the date of issue of the Series 2022 Obligations and shall end on the date selected by the City, provided that the first Bond Year shall not exceed one calendar year. The last Bond Year shall end on the date of retirement of the Series 2022 Obligations.

"*Bond Yield*" is as indicated in the Tax Certificate and means the discount rate that produces a present value equal to the Issue Price of all unconditionally payable payments of principal, interest and fees for qualified guarantees within the meaning of Regulations section 1.148-4(f) and amounts reasonably expected to be paid as fees for qualified guarantees in connection with the Series 2022 Obligations as determined under Regulations section 1.148-4(b). The present value of all such payments shall be computed as of the date of issue of the Series 2022 Obligations and using semiannual compounding on the basis of a 360-day year. Bond Yield shall be recomputed if required by Regulations section 1.148-4(b)(4) or 4(h)(3).

"*Business Day*" means a day on which banks located in the City of Phoenix, Arizona, and in the city or cities in which the corporate trust office of the Trustee and the Paying Agent are not required or authorized by law or executive order to remain closed.

"*City Representative*" means the Management Services Director or any other person at any time designated to act on behalf of the City by written certificate furnished to the Trustee containing the specimen signature of such person and signed by the City Manager or his or her designee. Such certificate may designate one or more alternates.

"*Closing Date*" means _____, 2022.

"*Code*" means the Internal Revenue Code of 1986, as amended, and any successor provisions thereto.

"*Defeasance Obligations*" means any of the following: (1) cash, (2) non-callable direct obligations of the United States of America ("*Treasuries*"), (3) evidences of ownership of proportionate interest in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, or any combination thereof.

"*Delivery Costs*" mean costs and expenses relating to the sale, credit enhancement and execution and delivery of the Series 2022 Obligations, including, but not limited to "out of pocket" expenses and charges, fees and disbursements of counsel, printing expenses and other expenses reasonably incurred by the City and the Trustee in connection with this Agreement and the Utility System Purchase Agreement.

"*Delivery Costs Fund*" means the fund of that name created pursuant to Section 5.1.

"*Depository Trustee*" means any financial institution meeting the requirements as a successor Trustee under Section 8.6 which may be designated by the City.

"Electronic Means" means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

"*Existing Projects*" means improvements to the System financed with the proceeds of the Obligations Being Prepaid.

"*Governmental Authority*" means the government of the United States of America or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

"*Gross Proceeds*" means:

(i) any amounts actually or constructively received by the City from the sale of the Series 2022 Obligations;

(ii) transferred proceeds of the Series 2022 Obligations under Regulations section 1.148-9;

(iii) any amounts actually or constructively received from investing amounts described in (i), (ii) or this (iii) and

(iv) replacement proceeds of the Series 2022 Obligations within the meaning of Regulations section 1.148-1(c). Replacement proceeds include amounts reasonably expected to be used directly or indirectly to pay debt service on the Series 2022 Obligations, pledged amounts where there is reasonable assurance that such amounts will be available to pay principal or interest on the Series 2022 Obligations in the event the City encounters financial difficulties and other replacement proceeds within the meaning of Regulations section 1.148-1(c)(4). Whether an amount is Gross Proceeds is determined without regard to whether the amount is held in any fund or account established under the Trust Agreement.

"*Improvements Fund*" means the fund of that name created pursuant to Section 1.1 of the Purchase Agreement.

"*Instructions*" mean instructions, including funds transfer instructions, delivered using Electronic Means.

"*Interest Account*" means the account of the Obligation Fund of that name created pursuant to Section 5.1.

"*Investment Property*" means any security, obligation (other than a tax-exempt bond within the meaning of Code section 148(b)(3)(A)), annuity contract or investment-type property within the meaning of Regulations section 1.148-1(b).

"*Issue Price*" is as indicated in the Tax Certificate as provided in Regulations section 1.148-1(b).

"*Maximum Annual Debt Service*" means the greatest aggregate fiscal year's debt service or payments due with respect to all of the Outstanding Parity Obligations and the Utility System Purchase Agreement then outstanding and on the Additional Parity Obligations to be issued or incurred.

"Moody's" mean Moody's Investors Service, Inc.

"*Net Revenues*" means Revenues remaining after deducting therefrom the amount necessary to pay the Operation and Maintenance Expenses.

"*New Projects*" means various capital improvement projects for the System. Water capital projects include, but are not limited to: _____. Wastewater capital projects include, but are not limited to: _____. Stormwater capital projects include, but are not limited to: _____.

"*Nonpurpose Investment*" means any Investment Property acquired with Gross Proceeds, and which is not acquired to carry out the governmental purposes of the Series 2022 Obligations.

"*Obligation Fund*" means the fund of that name created pursuant to Section 5.1.

"*Obligation Payment Date*" means January 1 and July 1, commencing _____ 1, 20__.

"*Obligations Being Prepaid*" means _____.

"*Operation and Maintenance Expenses*" means all costs reasonably incurred in connection with the operation, use and maintenance of the System, including repairs and renewals (other than capital improvements and acquisition of water, sewer and stormwater properties) necessary to keep the System in efficient and economical operating condition, including the payment of premiums for insurance required with respect to the System and generally all expenses, exclusive of depreciation, which under sound accounting practice are properly chargeable to, and reasonable and necessary to, the efficient and operation of the System.

"*Opinion of Counsel*" means a written opinion of an attorney or firm of attorneys who (except as otherwise expressly provided herein or in the Utility System Purchase

Agreement) may be counsel for the City or the Trustee, provided that such attorney or firm of attorneys may not be an employee of the Trustee.

"*Outstanding Parity Obligations*" means: the Loan Agreement, dated October 9, 2008, between the City and WIFA; the Loan Agreement-Red Gap Ranch, dated July 24, 2009, between the City and WIFA; the Loan Agreement-Sinagua Well, dated July 24, 2009, between the City and WIFA; the Loan Agreement-Red Gap Ranch II, dated October 2, 2009, between the City and WIFA; the Loan Agreement-Fort Tuthill Well, dated October 2, 2009, between the City and WIFA; the Series 2017 Utility System Revenue Purchase Agreement, dated as of August 1, 2017, between the City and The Bank of New York Mellon Trust Company, N.A.; and the Series 2019 Utility System Revenue Purchase Agreement, dated as of June 1, 2019, between the City and Zions Bancorporation, National Association.

"*Outstanding WIFA Parity Obligations*" means: the Loan Agreement, dated October 9, 2008, between the City and WIFA; the Loan Agreement-Red Gap Ranch, dated July 24, 2009, between the City and WIFA; the Loan Agreement-Sinagua Well, dated July 24, 2009, between the City and WIFA; the Loan Agreement-Red Gap Ranch II, dated October 2, 2009, between the City and WIFA; the Loan Agreement-Fort Tuthill Well, dated October 2, 2009, between the City and WIFA; and any future loan agreement entered into between the City and WIFA, the payments of which are secured by Net Revenues.

"*Owner*" or "*owner*" means the registered owner of the Series 2022 Obligation and initially means the Bank.

"*Payment*" means any payment within the meaning of Regulations section 1.148-3(d)(1) with respect to a Nonpurpose Investment.

"*Permitted Investments*" means any investment permitted by applicable law which shall include the following:

A. Direct obligations of, and obligations fully and unconditionally guaranteed as to timely payment by, the United States government and any agency, instrumentality, or establishment of the United States government.

B. Commercial paper having, at the time of investment or contractual commitment to invest therein, a rating from Moody's and S&P, of A1 and P1, respectively.

C. Repurchase and reverse repurchase agreements collateralized with obligations described in subparagraph (A), including those of the Trustee or any of its affiliates.

D. Investment in money market mutual funds having a rating in the highest investment category granted thereby from S&P or Moody's, including those for which the Trustee or an affiliate receives and retains a fee for services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise.

E. Bank deposit products, demand deposits, including interest bearing money market accounts, time deposits, trust funds, trust accounts, overnight bank deposits, interest-

bearing deposits, and certificates of deposit, including those placed by a third party pursuant to an agreement between the Trustee and the City, or bankers acceptances of depository institutions, including the Trustee or any of its affiliates, which are fully FDIC-insured.

"*Person*" shall include an individual, association, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

"*Principal Account*" means the account of the Obligation Fund of that name created pursuant to Section 5.1.

"*Projects*" means, collectively, the Existing Projects and the New Projects

"*Purchase Event of Default*" means one of the events defined as such in Section 6.1 of the Utility System Purchase Agreement.

"*Purchase Price*" means the sum of the payments required to be paid pursuant to Section 2.3(ii) and (iii) of the Utility System Purchase Agreement.

"*Rebate Requirement*" means at any time the excess of the future value of all Receipts over the future value of all Payments. For purposes of calculating the Rebate Requirement the Bond Yield shall be used to determine the future value of Receipts and Payments in accordance with Regulations section 1.148-3(c). The Rebate Requirement is zero for any Nonpurpose Investment meeting the requirements of a rebate exception under section 148(f)(4) of the Code or Regulations section 1.148-7.

"*Receipt*" means any receipt within the meaning of Regulations section 1.148-3(d)(2) with respect to a Nonpurpose Investment.

"*Record Date*" means (i) with respect to any Obligation Payment Date occurring on the first calendar day of any month, the fifteenth day of the calendar month next preceding that Obligation Payment Date (regardless of whether such fifteenth day is a Business Day) or (ii) such other date as may be designated pursuant to Section 2.2(c).

"*Regulations*" means the sections 1.148-1 through 1.148-11 and section 1.150-1 of the regulations of the United States Department of the Treasury promulgated under the Code, including and any amendments thereto or successor regulations.

"*Revenues*" means and includes all gross income and revenues of any kind howsoever derived from the sales and services of the System, including all rates, fees and charges and all gross revenues of all improvements, additions and extensions to the System hereafter constructed or acquired, as determined in accordance with generally accepted accounting principles, together with any interest earned thereon.

"*S&P*" mean Standard & Poor's Financial Services LLC.

"*Seller*" means the Trustee in its capacity as seller under the Utility System Purchase Agreement.

"*Series 2022 Obligations*" means the Utility System Revenue and Revenue Refunding Obligations, Series 2022 executed and delivered pursuant hereto.

"*Special Counsel*" means an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal bonds selected by the City.

"*Special Counsel's Opinion*" means an opinion signed by Special Counsel.

"*State*" means the State of Arizona.

"*System*" means and includes all of the properties and facilities of the complete water, sewer and stormwater systems of the City, whether lying within or without the boundaries of the City, as now existing and as they may hereafter be improved or extended, all improvements, additions and extensions thereto or replacements thereof hereafter constructed or acquired by purchase, contract or otherwise and all contracts, rights, agreements, leases and franchises of every nature owned by the City and used or useful or held for use in the operation of said plant and system or any part or portion thereof.

"*Tax Certificate*" means the Certificate Relating To Federal Tax Matters delivered by the City in connection with the original delivery of the Series 2022 Obligations.

"*Trust Agreement Event of Default*" means any one of those events set forth in Section 7.1.

"*Utility System Purchase Agreement*" means the Series 2022 Utility System Revenue Purchase Agreement, dated as of _____ 1, 2022, by and between the City and the Seller.

"*WIFA*" means the Water Infrastructure Finance Authority of Arizona.

Section 1.2 Interpretation.

(a) Any reference herein to the Mayor and Council or any officer of the City shall include those succeeding to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

(b) Unless the context otherwise indicates, words importing the singular shall include the plural and vice versa and the use of the neuter, masculine or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender.

(c) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof. References to "Articles" and "Sections" are to those in this Agreement.

Section 1.3. Series 2022 Obligations Not General Obligations of the City. The Series 2022 Obligations shall be payable solely out of the revenues and other security pledged hereby and shall not constitute an indebtedness or general obligation of the City within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the City or be a charge against the City's general credit or a charge against the general credit or the taxing powers of the State or any political subdivision thereof.

ARTICLE II
AUTHORIZATION AND TERMS OF SERIES 2022 OBLIGATIONS

Section 2.1 Authorization of Series 2022 Obligations. The Trustee is hereby authorized and directed, upon receipt of a request in writing from the City Representative, to prepare, execute and deliver the Series 2022 Obligation to the original purchaser thereof. In no event shall the Series 2022 Obligations be deemed a debt or liability of the Trustee.

Section 2.2 Form, Date and Payment Terms of Series 2022 Obligations.

(a) The Series 2022 Obligations shall be in the original principal amount of $____,000, and mature on July 1, 20__, be dated the date of their initial execution and delivery, be delivered in the form of a single physically certificated, fully registered Series 2022 Obligation, and bear interest from the most recent Obligation Payment Date to which interest has been paid or for which due provision has been made or, if no interest has been paid, from the date of their initial execution and delivery. The proportionate share of the portion of each installment of the Purchase Price designated as interest with respect to any Series 2022 Obligation shall be computed by multiplying the remaining unpaid principal with respect to the Series 2022 Obligations (whether paid as a result of mandatory prepayment or maturity) by ____ percent per annum (on the basis of a 360-day year of twelve 30-day months); except that the first installment shall be for interest from the date of initial execution and delivery to _____ 1, 20__.

(b) The Series 2022 Obligations shall be executed and delivered only in fully registered form and shall be numbered or otherwise designated in a manner specified by the Trustee so as to distinguish each Series 2022 Obligation from every other Series 2022 Obligation.

(c) Interest on the Series 2022 Obligations shall be payable when due to the Owner in whose name the Series 2022 Obligation is registered at the close of business on the Record Date with respect to each Obligation Payment Date, irrespective of any transfer or exchange of such Series 2022 Obligation subsequent to such Record Date and prior to such Obligation Payment Date, unless there is a default in the payment of interest due on such Obligation Payment Date. In the event of any such default, such defaulted interest shall be payable to the Owner in whose name such Series 2022 Obligation is registered at the close of business on a special Record Date for the payment of such defaulted interest established by notice mailed by the Trustee to the Owner of the Series 2022 Obligations not less than 15 days

preceding such special Record Date. Such notice shall be mailed to the Owner in whose name the Series 2022 Obligation is registered at the close of business on the fifth day preceding the date of mailing. If the Trustee registers the transfer of any Series 2022 Obligation subsequent to the mailing of such notice and on or before the special Record Date, any such notice of payment of defaulted interest shall be binding upon the transferee and a copy of the notice of payment of defaulted interest shall be delivered by the Trustee to the transferee along with the Series 2022 Obligation or Series 2022 Obligations.

(d) Principal of and interest on the Series 2022 Obligations shall be payable in any coin or currency of the United States of America which, on the related Obligation Payment Dates, is legal tender for the payment of public and private debts. Payment of principal of and interest on the Series 2022 Obligations (except that due on July 1, 20__) shall be made by wire transfer of immediately available funds to an account located in a bank within the United States pursuant to wire transfer directions issued by the then Owner of the Series 2022 Obligations. Payment of principal of and interest on the Series 2022 Obligations due on July 1, 20__, shall be paid upon physical delivery and surrender of the Series 2022 Obligations to the Trustee on such date. Notwithstanding the foregoing, for the period while the Bank is the Owner of the Obligations, amounts shall be wired to the following:

Name of Bank: _____
Routing Number: _____
Account Number: _____
Account Name: _____
Reference: _____

Section 2.3 Mutilated, Destroyed, Lost and Stolen Series 2022 Obligations. If (a) any mutilated Series 2022 Obligation is surrendered to the Trustee, or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Series 2022 Obligation, and (b) there is delivered to the Trustee such security or indemnity as the Trustee may require to hold the Trustee harmless, then, in the absence of notice to the Trustee that such Series 2022 Obligation has been acquired by a *bona fide* purchaser and upon the Owner paying the reasonable expenses of the Trustee and of any security or indemnity obligation required by the Trustee, the Trustee shall execute and deliver, in exchange for such mutilated Series 2022 Obligation or in lieu of such destroyed, lost or stolen Series 2022 Obligation, a new Series 2022 Obligation of remaining payable principal amount and like tenor. If any such mutilated, destroyed, lost or stolen Series 2022 Obligation has become, or will on or before the next Obligation Payment Date become, due and payable, the Trustee may, in its discretion, pay such Series 2022 Obligation when due instead of delivering a new Series 2022 Obligation.

Section 2.4 Execution of Series 2022 Obligations. All Series 2022 Obligations shall be executed by and in the name of the Trustee by manual signature of an authorized representative of the Trustee. If any authorized representative of the Trustee whose signature appears on any Series 2022 Obligation ceases to be such authorized representative before the date of initial execution and delivery of the Series 2022 Obligations, such signature shall nevertheless be as effective as if the authorized representative had remained in office through such date. Any Series 2022 Obligation may be executed on behalf of the Trustee by such person as at the actual date of the execution of such Series 2022 Obligation shall be the proper officer of the Trustee, although at the nominal date of such Series 2022 Obligation such person shall not have been such officer of the Trustee.

Section 2.5 Registration and Transfer of Series 2022 Obligations.

(a) All Series 2022 Obligations executed and delivered hereunder shall be negotiable, subject to the provisions for registration and transfer thereof contained herein or in the Series 2022 Obligations.

(b) The Trustee shall maintain at its offices books for the registration and transfer of Series 2022 Obligations and shall provide for the registration and transfer of any Series 2022 Obligation under such reasonable regulations as the Trustee may prescribe. The Trustee shall act as registrar for purposes of exchanging and registering Series 2022 Obligations in accordance with the provisions hereof.

(c) Each Series 2022 Obligation shall be transferable only in whole and not in part upon the registration books maintained by the Trustee, by the Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered Owner or his duly authorized attorney. Upon surrender for transfer of any Series 2022 Obligation, the Trustee shall execute and deliver, in the name of the transferee, a new Series 2022 Obligation, of the principal amount remaining payable at maturity as the surrendered Series 2022 Obligation.

(d) All Series 2022 Obligations surrendered in any transfer of Series 2022 Obligations shall forthwith be cancelled by the Trustee.

(e) In connection with any such transfer of Series 2022 Obligations the Owner requesting such transfer shall as a condition precedent to the exercise of the privilege of making such transfer remit to the Trustee an amount sufficient to pay any tax or other governmental charge required to be paid with respect to such transfer.

Section 2.6 Persons Deemed Owners. The Person in whose name any Series 2022 Obligation shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal of and interest on any Series 2022 Obligation shall be made only to or upon the written order of the registered Owner thereof. Such payment shall be valid and effectual to satisfy and discharge the liability upon such Series 2022 Obligation to the extent of the amount so paid.

ARTICLE III
PREPAYMENT OF SERIES 2022 OBLIGATIONS

Section 3.1 Prepayment Provisions.

(a) [Principal of the Series 2022 Obligations is not subject to optional prepayment.]

(b) Principal of the Series 2022 Obligations shall be prepaid on July 1 of the years indicated and in the amounts indicated at a price equal to the amount thereof plus interest accrued to the date of prepayment, but without premium, with a final maturity amount of $____,000 payable in 20__:

Year Prepaid	Principal Amount Prepaid

ARTICLE IV
FORM OF SERIES 2022 OBLIGATIONS

The Series 2022 Obligations shall be substantially in the form set forth in the *Exhibit* hereto with such omissions, insertions and variations as are consistent with the provisions hereof.

ARTICLE V
REVENUES AND FUNDS

Section 5.1 Creation of Funds and Accounts. The Trustee shall create (a) the Obligation Fund, which shall contain the following accounts: (i) the Interest Account and (ii) the Principal Account, and (b) the Delivery Costs Fund. Such fund and accounts shall be held in trust for the benefit of the Owner.

Section 5.2 Application of Series 2022 Obligation Proceeds. The Trustee shall receive $____,000.00, being the proceeds of the sale of the Series 2022 Obligations. The Trustee shall: (a) deposit such proceeds in an amount equal to $_____ to the Delivery Costs Fund; (b) transfer such proceeds in an amount equal to $_____ to the City for deposit to the Improvements Fund; and (c) transfer the balance of such proceeds ($_____) to WIFA to defease the Obligations Being Prepaid.

Section 5.3 Flow of Funds Into the Obligation Fund. The following payments to the Trustee shall be applied in the following manner:

(i) The Trustee shall deposit to the Interest Account amounts paid pursuant to Section 2.3(ii) of the Utility System Purchase Agreement.

(ii) The Trustee shall deposit to the Principal Account amounts paid pursuant to Section 2.3(iii) of the Utility System Purchase Agreement.

Section 5.4 Flow of Funds Out of the Obligation Fund. Amounts in the following accounts shall be applied in the following manner:

(i) Amounts in the Interest Account shall be used to pay the portion of each installment of the Purchase Price designated as interest represented by the Series 2022 Obligations as it becomes due.

(ii) Amounts in the Principal Account shall be used to pay the principal (whether because of maturity or mandatory prepayment) represented by the Series 2022 Obligations as scheduled.

Section 5.5 Investment of Moneys Held by Trustee.

(a) Moneys in all funds and accounts held by the Trustee shall be invested by the Trustee, as soon as possible upon receipt of immediately available funds at its designated corporate trust office, to the fullest amount possible in Permitted Investments as directed, in writing, by the City Representative; provided that the maturity date or the date on which such Permitted Investments may be redeemed at the option of the owner thereof shall coincide as nearly as practicable with (but in no event shall be later than) the date or dates on which moneys in the funds or accounts for which the investments were made will be required for the purposes thereof. In the event no investment direction is given to the Trustee by the City, then the Trustee shall hold such moneys uninvested.

(b) Amounts credited to a fund or account may be invested, together with amounts credited to one or more other funds or accounts, in the same Permitted Investment, provided that (i) each such investment complies in all respects with the provisions of subsection (a) of this Section as they apply to each fund or account for which the joint investment is made and (ii) the Trustee maintains separate records for each fund and account and such investments are accurately reflected therein.

(c) The Trustee may make any investment permitted by this Section, through or with its own commercial banking or investment departments unless otherwise directed by the City Representative.

(d) The Trustee shall sell at the best price obtainable, or present for redemption, any Permitted Investment purchased by it as an investment whenever it shall be necessary in order to provide moneys to meet any payment or transfer from the fund or account for which such investment was made.

(e) (i) The City shall not knowingly make any investment at a *"yield"* in excess of the maximum yield, if any, stated with respect to the source of moneys therefor in any arbitrage or other similar certificate executed and delivered pursuant to section 148 of the Code or any successor section of the Code, issued in connection with the execution and delivery of the Series 2022 Obligations except during any *"temporary period"* stated in any arbitrage or other certificate, and the City shall make and keep appropriate records of such investments, yields and temporary periods as required by section 148 of the Code or any successor section thereof. Notwithstanding the foregoing, investments may be made at a higher *"yield"* or for a different *"temporary period"* or both in accordance with written instructions of Special Counsel filed with and addressed to the Trustee, accompanied by the written investment direction of the City.

(ii) The City shall not knowingly use or direct or permit the use of any moneys of the City in its possession or control in any manner which would cause any Series 2022 Obligation to be an *"arbitrage bond"* within the meaning ascribed to such term in section 148 of the Code, or any successor section of the Code. The City shall comply with and take all actions required by any arbitrage or similar certificate and will continue to do so notwithstanding any satisfaction or discharge of this Agreement.

Section 5.6 Liability of Trustee for Investments. The Trustee shall not be liable for any loss resulting from the making of any investment made in accordance with the provisions hereof except for its own negligence and willful misconduct. The Trustee may rely on the investment directions of the City as to both the suitability and legality of the directed investments. The City acknowledges that regulations of the Comptroller of the Currency grant the City the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the City specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

Section 5.7 Investment Income. Except as otherwise provided herein, interest income and gain received, or loss realized, from investments or moneys in any fund or account shall be credited, or charged, as the case may be, to such respective fund or account.

Section 5.8 Delivery Costs Fund Proceeds from the sale of the Series 2022 Obligations shall be deposited in the Delivery Costs Fund as described in Section 5.2. The Trustee shall disburse moneys in the Delivery Costs Fund only upon a requisition signed by the City Representative, setting forth the amounts to be disbursed for payment or reimbursement of

Delivery Costs and the person or persons to whom such amounts are to be disbursed, stating that the amounts to be disbursed are for Delivery Costs properly chargeable to the Delivery Costs Fund. Amounts remaining in the Delivery Costs Fund after _____ 1, 2022, or such earlier date as the City has notified the Trustee that all Delivery Costs have been paid, shall be transferred to the City for deposit to the Improvements Fund.

The Trustee shall be responsible for the safekeeping and investment, upon the written direction of the City Representative, of the moneys held in the Delivery Costs Fund in Permitted Investments and the payment thereof in accordance with this Section. Notwithstanding the foregoing, the Trustee shall be entitled to rely conclusively on the requisitions and written orders supplied to it by the City Representative in connection with disbursements made pursuant to this Section.

ARTICLE VI
CERTAIN COVENANTS

Section 6.1 Payment of Principal and Interest. Subject to the limited liability and sources of payment specified herein, the Series 2022 Obligations shall be promptly paid in the amounts due at the place, on the dates and in the manner provided herein and in said Series 2022 Obligations according to the terms thereof. The amounts due on the Series 2022 Obligations are payable solely from moneys held or received by the Trustee hereunder, all of which are hereby specifically assigned and pledged to such payment in the manner and to the extent specified herein and nothing herein or in the Series 2022 Obligations shall be construed as assigning or pledging any other funds or assets of the City.

Section 6.2 Performance of Covenants. Subject to the limited liability and sources of payment described herein, the City shall faithfully perform at all times any and all covenants, undertakings, stipulations and provisions on its part to be performed as provided herein, in each and every Series 2022 Obligation executed and delivered hereunder and in all proceedings of the City pertaining thereto.

Section 6.3 Instruments of Further Assurance. The City shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such instruments supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require (which the Trustee has no duty to so require) for the better assuring, transferring, mortgaging, conveying, pledging, assigning and confirming unto the Trustee all interests, revenues and receipts pledged hereby to the payment of the principal of and interest on the Series 2022 Obligations in the manner and to the extent contemplated herein.

Section 6.4 Rights under Utility System Purchase Agreement. The Trustee may enforce all rights under the Utility System Purchase Agreement for and on behalf of the Owner, whether or not the City is then in default hereunder.

Section 6.5 Protection of Lien. The City shall not make or create or agree to permit to be made or created any assignment or lien on a parity with or having priority or

preference over the assignment and lien hereof upon the interests granted hereby or any part thereof except as otherwise specifically provided in the Utility System Purchase Agreement. No obligation the payment of which is secured by property or revenues pledged hereunder shall be executed and delivered by the City except in lieu of, or upon transfer of registration or exchange of, any Series 2022 Obligation as provided in the Utility System Purchase Agreement.

ARTICLE VII
DEFAULT AND REMEDIES

Section 7.1 Trust Agreement Events of Default. Each of the following is hereby declared a *"Trust Agreement Event of Default"* hereunder:

(i) If payment of any installment of interest on any Series 2022 Obligation shall not be made in full when the same becomes due and payable;

(ii) If payment of the principal on any Series 2022 Obligation shall not be made in full when the same becomes due and payable;

(iii) If, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of all or any part of the interests pledged hereunder and such custody or control shall continue for more than 60 days;

(iv) If the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions on its part to be performed as provided herein or in the Series 2022 Obligations and such default shall continue for 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the Trustee, unless within such 30 days the City shall have commenced and be diligently pursuing in good faith appropriate corrective action to the satisfaction of the Trustee, but in no event shall such corrective action occur more than 60 days after such notice; the Trustee may give such notice in its discretion and shall give such notice at the written request of the Owner; or

(v) If any Purchase Event of Default occurs.

Section 7.2 Remedies and Enforcement of Remedies.

(a) Upon the occurrence and continuance of any Trust Agreement Event of Default and in accordance with Article VII hereof and Article VI of the Utility System Purchase Agreement, the Trustee may, and upon the written request of the Owner, together with indemnification of the Trustee to its satisfaction therefor, shall, proceed forthwith to protect and enforce its rights and the rights of the Owner hereunder and the Series 2022 Obligations by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to, an action for the recovery of any amounts due hereunder or for damages for the breach of this Agreement, and the Trustee may pursue any other remedy which the law affords, including the remedy of specific performance. The Trustee shall also have those

remedies provided pursuant to Article VI of the Utility System Purchase Agreement, subject to any limitations on such remedies set forth in such Article VI.

(b) Regardless of the happening of a Trust Agreement Event of Default and subject to Section 7.7, the Trustee, if requested in writing by the Owner shall, upon being indemnified to its satisfaction therefor, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient (i) to prevent any impairment of the security hereunder by any acts which may be unlawful or in violation hereof, or (ii) to preserve or protect the interests of the Owner, provided that such request is in accordance with law and the provisions hereof.

Section 7.3 No Acceleration. In no event shall the Trustee have the right to accelerate or cause to become immediately due and payable, or payable in advance of their scheduled payment dates, any amounts due hereunder.

Section 7.4 Application of Revenues and Other Moneys After Default.

(a) During the continuance of a Trust Agreement Event of Default all moneys then held by the Trustee hereunder, or moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys, including reasonable attorneys' fees, and of the fees, expenses and advances incurred or made by the Trustee with respect thereto, be deposited in the Obligation Fund, and all amounts held by the Trustee hereunder shall be applied as follows:

First: To the payment of all installments of interest (including interest on amounts unpaid when due on the Series 2022 Obligation); and

Second: To the payment of the unpaid Principal Installments which shall have become due, whether at maturity or because of prepayment in the order of their due dates.

(b) Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date upon which such application is to be made and upon such date interest on the amounts of principal of the Series 2022 Obligations to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Owner until such Series 2022 Obligation shall be presented to the Trustee for appropriate endorsement of any partial payment or for cancellation if fully paid.

(c) Whenever all principal of and interest on the Series 2022 Obligations which has become due has been paid under the provisions of this Section and all

expenses and charges of the Trustee have been paid and the Obligation Fund contains the amounts then required to be credited thereto, any balance remaining shall be paid to the City.

Section 7.5 Remedies Not Exclusive. No remedy by the terms hereof conferred upon or reserved to the Trustee or the Owner is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity or by statute on or after the date hereof.

Section 7.6 Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) hereunder or under any of the Series 2022 Obligations may be enforced by the Trustee, without the possession of any of the Series 2022 Obligations or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding may be brought without the necessity of joining as plaintiff or defendant the Owner. Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of the Owner any plan of reorganization, arrangement, adjustment, or composition affecting the Obligations or the rights of the Owner thereof, or to authorize the Trustee to vote in respect of the claim of the Owner in any such proceeding without the approval of the Owner.

Section 7.7 Individual Owner Action Restricted.

(a) No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement hereof or for the execution of any trust hereunder or for any remedy hereunder except for the right to institute any suit, action or proceeding in equity or at law for the enforcement of the Trustee's duties and powers hereunder upon the occurrence of all of the following events:

(i) The Owner shall have made written request to the Trustee to proceed to exercise the powers granted herein; and

(ii) Such Owner shall have offered the Trustee indemnity as provided in Section 8.2(v); and

(iii) The Trustee shall have failed or refused to exercise the duties or powers herein granted for a period of 60 days after receipt by it of such request and offer of indemnity; and

(iv) During such 60 day period no direction inconsistent with such written request has been delivered to the Trustee by the Owner.

(b) No Owner shall have any right in any manner whatsoever to affect, disturb or prejudice the security hereof or to enforce any right hereunder except in the manner herein provided.

(c) Nothing contained herein shall affect or impair, or be construed to affect or impair, the right of the Owner (i) to receive payment of the principal of or interest on the Series 2022 Obligation, as the case may be, on or after the due date thereof or (ii) to institute suit for the enforcement of any such payment on or after such due date.

Section 7.8 Termination of Proceedings. In case any proceeding taken on account of a Trust Agreement Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Owner, then the City, the Trustee and the Owner shall be restored to their former positions and rights hereunder, and all rights and powers of the Trustee and the Owner shall continue as if no such proceeding had been taken.

Section 7.9 Waiver of Event of Default.

(a) No delay or omission of the Trustee or of the Owner to exercise any right or power accruing upon any Trust Agreement Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Trust Agreement Event of Default or an acquiescence therein. Every power and remedy given by this Article may be exercised from time to time and as often as may be deemed expedient.

(b) The Trustee may waive in writing any Trust Agreement Event of Default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions hereof, or before the completion of the enforcement of any other remedy hereunder.

(c) In case of any waiver by the Trustee of a Trust Agreement Event of Default hereunder, the City, the Trustee and the Owner shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other Trust Agreement Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Trust Agreement Event of Default in accordance with this Section.

Section 7.10 Notice of Default.

(a) Within 30 days after (i) the occurrence of a Trust Agreement Event of Default under Section 7.1(i) or (ii) of which the Trustee is deemed to have notice, or (ii) receipt by the Trustee of actual knowledge or written notice of a Trust Agreement Event of Default under Section 7.1(iii), (iv) or (v), the Trustee shall, unless such Trust Agreement Event of Default shall have theretofore been cured, give written notice thereof by first class mail to the Owner.

(b) The Trustee shall immediately notify the City of (i) the occurrence of a Trust Agreement Event of Default under Section 7.1(i) or (ii) and (ii) when the Trustee has received actual knowledge or written notice of a Trust Agreement Event of Default under Section 7.1(iii), (iv) or (v).

Section 7.11 Limitation of Liability.

(a) Except for the payment of amounts pursuant to the Utility System Purchase Agreement when due and the performance of the other covenants and agreements of the City contained in the Utility System Purchase Agreement and herein, the City shall have no pecuniary obligation or liability to any of the other parties or to the Owner with respect to this

Agreement or the terms, execution, delivery or transfer of the Series 2022 Obligations, or the distribution of applicable portions of the Purchase Price to the Owner by the Trustee.

(b) The City shall not have any obligation or liability to any of the other parties or to the Owner with respect to the performance by the Trustee of any duty imposed upon it under this Agreement; nor shall the Trustee have any obligation or liability to any of the other parties or to the Owner with respect to the performance by the City of any duty imposed upon them under this Agreement.

Section 7.12 Limitations on Remedies. It is the purpose and intention of this Article to provide rights and remedies to the Trustee and the Owner which may be lawfully granted, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Owner shall be entitled, as above set forth, to every other right and remedy provided in this Agreement and, to the extent consistent with the provisions of this Agreement, by law.

ARTICLE VIII
THE TRUSTEE

Section 8.1 Certain Duties and Responsibilities.

(a) Except during the continuance of a Trust Agreement Event of Default:

(i) The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(ii) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which are required by any provision hereof or of the Utility System Purchase Agreement, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement or the Utility System Purchase Agreement on their face.

(b) In case a Trust Agreement Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent corporate trustee would exercise or use under the circumstances.

(c) No provision of this Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection shall not be construed to limit the effect of subsection (a);

(ii) the Trustee shall not be liable for any error of judgment made in good faith and without negligence by a president or vice-president of the board of directors, the president or vice-president of the executive committee of the board of directors, the president, any vice president, any assistant vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, senior associate, associate or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers or, with respect to a particular matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and having direct responsibility for the administration of this Agreement;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith and without negligence in accordance with the direction of the Owner as provided herein relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement and

(iv) no provision of this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not reasonably assured to it. The Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment properly to be done by it as Trustee, without prior assurance of indemnity, and in such case shall be entitled to reimbursement by the City for all reasonable costs, expenses, attorneys' and other fees, and all other reasonable disbursements, including its own fees, and for all liability and damages suffered by the Trustee in connection therewith except for the Trustee's negligence or willful misconduct.

(d) Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

Section 8.2 Certain Rights of Trustee. Except as otherwise provided in Section 8.1:

(i) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, obligation, note or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties.

(ii) Any request or direction of the City mentioned herein shall be sufficiently evidenced by a certificate of the City Representative, and any action of the Mayor and Council of the City may be sufficiently evidenced by a copy of a resolution

certified by the Clerk or Assistant Clerk of the City to have been duly adopted by the Mayor and Council of the City and to be in full force and effect on the date of such certification and delivered to the Trustee.

(iii) Whenever in the administration of this Agreement the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a certificate of the City Representative.

(iv) The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(v) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of the Owner pursuant to this Agreement unless the Owner shall have offered to the Trustee satisfactory security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(vi) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, obligation, note or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(vii) The Trustee may engage agents and attorneys to assist it in executing any of the trusts or powers hereunder or performing any duties hereunder and shall not be liable for the negligence or misconduct of such agents and attorneys so long as the Trustee exercises due care in the selection thereof.

(viii) The Trustee shall not be responsible for the recording or filing of any documents relating to the Utility System Purchase Agreement or this Agreement.

(ix) The permissive right of the Trustee to do things enumerated in this Agreement shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default. The Trustee shall have no responsibility or liability with respect to any information, statements or recitals in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Certificates.

(x) In acting or omitting to act pursuant to the Utility System Purchase Agreement, the Trustee shall be entitled to all of the rights, immunities and

indemnities accorded to it under this Agreement, including, but not limited to, this Article VIII.

Section 8.3 Employment of Experts. The Trustee is hereby authorized to employ as its agents such attorneys at law, certified public accountants and recognized authorities in their fields (who are not employees of the Trustee), as it reasonably may deem necessary to assist it to carry out any of its obligations hereunder, and shall be reimbursed by the City for all reasonable expenses and charges in so doing.

Section 8.4 Enforcement of Performance by Others. Except as provided in Section 8.1 or otherwise specifically provided herein, it shall not be the duty of the Trustee to see that any duties and obligations herein imposed upon the City are performed.

Section 8.5 Right to Take Other Actions. It is understood and agreed that the Trustee engages in a general banking business and no provision hereof or of the Utility System Purchase Agreement is to be construed to limit or restrict the right of the Trustee to engage in such business with the City or the Owner. So engaging in such business shall not, in and of itself, and so long as the Trustee duly performs all of its duties as required hereby and by the Utility System Purchase Agreement, constitute a breach of trust on the part of the Trustee, but neither shall engaging in such business abrogate, alter or diminish any duty or obligation of the Trustee as Trustee hereunder.

Section 8.6 Removal and Resignation of Trustee.

(a) The Trustee may resign at any time from the trusts created hereby by giving written notice of the resignation to the City and by mailing written notice of the resignation to the Owner as its name and address appears on the register it maintains with respect to the Series 2022 Obligations at the close of business fifteen days prior to the mailing. The resignation shall take effect upon the appointment of a successor Trustee.

(b) The Trustee may be removed at any time immediately if with cause and upon thirty (30) days' prior written notice if without cause by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the City and signed by (i) the City Representative or (ii) by or on behalf of the Owner. The Trustee also may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Agreement with respect to the duties and obligations of the Trustee by an instrument signed by the City or by any court of competent jurisdiction upon the application of the City, or the Owner. Any removal shall not take effect until a successor Trustee shall have been appointed. In the event a successor Trustee has not been appointed and qualified within 60 days of the date notice of resignation or removal is given, the Trustee may apply to any court of competent jurisdiction for the appointment of a successor Trustee to act until such time as a successor is appointed as provided in this Section.

(c) In the event of the resignation or removal of the Trustee or in the event the Trustee is dissolved or otherwise becomes incapable to act as the Trustee, the City shall be entitled to appoint a successor Trustee acceptable to the City.

(d) If the Owner objects to the successor Trustee so appointed by the City and if the Owner designates another Person qualified to act as the Trustee, the City shall then appoint as the Trustee the Person so designated by the Owner.

(e) Unless otherwise ordered by a court or regulatory body having competent jurisdiction, or unless required by law, any successor Trustee shall be a trust company or bank having the powers of a trust company as to trusts, qualified to do trust business in the State or the United States and having an officially reported combined capital, surplus, undivided profits and reserves aggregating at least $75,000,000, if there is such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

(f) Every successor Trustee howsoever appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City an instrument in writing, accepting such appointment hereunder, and thereupon such successor Trustee, without further action, shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, and such predecessor shall execute and deliver an instrument transferring to such successor Trustee all the rights, power and trusts of such predecessor. The predecessor Trustee shall execute any and all documents necessary or appropriate to convey all interest it may have to the successor Trustee. The predecessor Trustee shall promptly deliver all records relating to the trust or copies thereof and communicate all material information it may have obtained concerning the trust to the successor Trustee.

(g) Each successor Trustee, not later than ten days after its assumption of the duties hereunder, shall mail a notice of such assumption to the Owner.

(h) Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Trustee without the execution or filing of any paper or any further act, provided such company shall be eligible as a successor Trustee under this Agreement.

Section 8.7 Proof of Claim. The Trustee shall have the right and power to take actions in the name and place of the City or the Owner to make proof of claim in any proceeding, bankruptcy, reorganization or otherwise where proof of claim may be required.

Section 8.8 Trustee's Fees and Expenses.

(a) The Trustee shall be entitled to be paid from time to time reasonable compensation for all services rendered by it hereunder; to reimbursement upon request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Agreement (including the reasonable compensation and

the expenses and disbursements of its counsel and its agents), except any such expense, disbursement or advance as may be attributable to its negligence or willful misconduct; and, together with its officers, directors, agents and employees, to be indemnified by the City, for, from and against any loss, liability, claim, suit, cost, judgment, damages or expense (including reasonable legal fees and expenses) arising out of or in connection with the acceptance or administration of this trust or its duties hereunder, under the Utility System Purchase Agreement or any other document or transaction contemplated herewith or therewith. The Trustee's right to indemnity shall not extend to claims, suits and actions successfully brought against the Trustee for, or losses, liabilities or expenses incurred as a result of the Trustee's own negligence or willful misconduct. In the event any action or proceeding is instituted or pending against the Trustee by reason of or in connection with the acceptance or administration of this trust or the Trustee's duties hereunder, the City may, at its election, assume the defense of any such action or proceeding with counsel satisfactory to the Trustee. If any such action or proceeding includes any claims alleging the Trustee's own negligence or willful misconduct, the Trustee shall reimburse the City its expenses (including reasonable attorneys' fees), if any, of assuming the defense of such action or proceeding if it is determined by a final judgment of a court of competent jurisdiction that the Trustee is not entitled to be indemnified as authorized in this Section. Any settlement of any such action or proceeding shall not, of itself, create a presumption as to the merits of any claims alleging the Trustee's own negligence or willful misconduct. The Trustee's rights to compensation, reimbursement and indemnity while serving as Trustee hereunder shall survive resignation or removal of the Trustee or discharge of this Agreement.

(b) Any provision hereof to the contrary notwithstanding, if the City fails, within 30 days of receiving an itemized invoice and back-up documentation, to make any payment properly due the Trustee for its reasonable fees, costs, expenses and fees of attorneys, certified public accountants, recognized authorities in their field and agents (not employees of the Trustee) incurred in performance of its duties, the Trustee may reimburse itself from any moneys on hand in any fund or account created pursuant hereto and shall have a lien prior to the Owner. When the Trustee incurs expenses or renders services after the occurrence of a Trust Agreement Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Section 8.9 Destruction of Series 2022 Obligations. Upon payment of or surrender to the Trustee for cancellation of any Series 2022 Obligation, the Trustee shall destroy such Series 2022 Obligation.

Section 8.10 Reports. The Trustee shall quarterly, or at such other intervals as the Trustee and the City shall from time to time agree upon (but in no event more frequently than monthly), prepare and submit to the City reports covering all moneys received and all payments, expenditures and investments made as the Trustee hereunder since the last previous such report.

Section 8.11 Separate or Co-Trustee.

(a) At any time or times, solely for the purpose of meeting any legal requirements of any jurisdiction other than Arizona, the City and the Trustee shall have power to appoint, and, upon the request of the Trustee or of the Owner and the City shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons, approved by the Trustee and, unless a Trust Agreement Event of Default has occurred and is continuing, reasonably acceptable to the City, either to act as co-trustee or co-trustees, jointly with the Trustee of all or any part of the pledged property, or to act as separate trustee or separate trustees of all or any part of the pledged property, and to vest in such Person or Persons, in such capacity, such title to the pledged property or any part thereof, and such rights, powers, duties, trusts or obligations as the City and the Trustee may consider necessary or desirable, subject to the remaining provisions of this Section.

(b) If the City shall not have joined in such appointment within 30 days after the receipt by it of a request so to do, or in case a Trust Agreement Event of Default shall have occurred and be continuing, the Trustee alone shall have power to make such appointment.

(c) The City shall execute, acknowledge and deliver all such instruments as may reasonably be required by any such co-trustee or separate trustee for more fully and certainly vesting in such co-trustee or separate trustee the Projects, rights, powers and duties intended to be vested in such co-trustee or separate trustee.

(d) Every co-trustee or separate trustee shall, to the extent permitted by law but to such extent only, be appointed subject to the following terms, namely:

(i) The Series 2022 Obligations shall be executed and delivered, and all rights, powers, trusts, duties and obligations hereby conferred upon the Trustee in respect to the custody, control and management of moneys, papers, securities and other personal property shall be exercised, solely by the Trustee.

(ii) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co-trustee or co-trustees or separate trustee or separate trustees jointly, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees, except to the extent that, under the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-trustee or co-trustees or separate trustee or separate trustees.

(iii) Any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient

warrant for the taking, or the refraining from taking, of such action by such co-trustee or separate trustee and such co-trustee or separate trustee shall abide by such request.

(iv) Any co-trustee or separate trustee may, to the extent permitted by law, delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(v) The Trustee may at any time, by any instrument in writing, with the concurrence of the City, accept the resignation of or remove any co-trustee or separate trustee appointed under this Section, and, in case a Trust Agreement Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee. Upon the request of the Trustee, the City shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal.

(vi) No Trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder, nor will the act or omission of any trustee hereunder be imputed to any other trustee.

(vii) Any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing delivered to the Trustee shall be deemed to have been delivered to each such co-trustee or separate trustee.

(viii) Any moneys, papers, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

(e) Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it or he shall be vested jointly with the Trustee (except insofar as local law makes it necessary for any such co-trustee or separate trustee to act alone) with such title to the pledged property or any part thereof, and with such rights, powers, duties or obligations, as shall be specified in the instrument of appointment subject to all the terms hereof. Every such acceptance shall be filed with the Trustee. To the extent permitted by law, any co-trustee or separate trustee may, at any time by an instrument in writing signed by the Trustee and any co-trustee or separate trustee, constitute the Trustee, its or his attorney-in-fact and agent, with full power and authority to do all acts and things and to exercise all discretion on its or his behalf and in its or his name.

(f) In case any co-trustee or separate trustee shall dissolve, cease to exist, become incapable of acting, resign or be removed, the title to the pledged property, and all rights, powers, trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the manner herein provided.

Section 8.12 Recitals and Representations.

(a) The recitals, statements and representations contained herein, or in any Series 2022 Obligation (excluding the Trustee's execution of the Series 2022 Obligations or any recitals or representations concerning the Trustee or its powers) shall not be taken or construed as made by the Trustee, and the Trustee neither assumes nor shall be under any responsibility for the correctness of the same.

(b) The Trustee makes no representation as to, and is not responsible for, the validity or sufficiency hereof, of the Series 2022 Obligations, or, except as herein required, the filing or recording or registering of any document. The Trustee shall be deemed not to have made representations as to the security afforded hereby or hereunder or as to the validity or sufficiency of such document. The Trustee shall not be concerned with or accountable to anyone for the use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof. Except as to defaults described in Sections 7.1(a)(i) and (ii) of which the Trustee is deemed to have notice, the Trustee shall have no duty of inquiry with respect to any default or Trust Agreement Events of Default described herein without actual knowledge of or receipt by the Trustee of written notice of a default or a Trust Agreement Event of Default from the Owner.

ARTICLE IX
SUPPLEMENTS TO TRUST AGREEMENT AND AMENDMENTS TO UTILITY SYSTEM PURCHASE AGREEMENT

Section 9.1 Supplements not Requiring Consent of Owner. The City acting through the City Representative and the Trustee may, without the consent of or notice to the Owner, enter into one or more supplements for one or more of the following purposes:

(i) To cure any ambiguity or formal defect or omission herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein, or, to make any other provisions with respect to matters or questions arising hereunder provided such action shall, in the opinion of counsel delivered to the Trustee under Section 9.3(a), not materially adversely affect the interests of the Owner;

(ii) To grant or confer upon the Owner any additional rights, remedies, powers or authority that may lawfully be granted or conferred upon them;

(iii) To secure additional revenues or provide additional security or reserves for payment of the Series 2022 Obligations;

(iv) To comply with the requirements of any state or federal securities laws or the Trust Indenture Act of 1939, as from time to time amended, if required by law or regulation lawfully issued thereunder;

(v) To provide for the appointment of a successor trustee or co-trustee pursuant to the terms of Section 8.6 and Section 8.11;

(vi) To permit Series 2022 Obligations in bearer form if the City and the Trustee receive a Special Counsel's Opinion that such action will not cause the interest on any Series 2022 Obligations to become includible in gross income for purposes of federal income taxes;

(vii) To preserve the exclusion of the interest on the Series 2022 Obligations from gross income for purposes of federal or State income taxes and to preserve the power of the City to continue to incur obligations (specifically not limited to the Series 2022 Obligations authorized hereby) the interest on which is likewise exempt from federal and State income taxes; and

(viii) To adopt procedures for the disclosure of information to Owners and to others in accordance with any guidelines for such purpose promulgated by the American Bankers Association or some other similar national organization, as such guidelines may be made applicable to this Agreement by agreement of the Trustee and the City.

Section 9.2 Supplements Requiring Consent of Owner.

(a) Other than supplements referred to in Section 9.1 and subject to the terms and provisions and limitations contained in this Article and not otherwise, the Owner shall have the right, from time to time, anything contained herein to the contrary notwithstanding, to consent to and approve the execution by the City and the City Representative and the Trustee of such supplement as shall be deemed necessary and desirable by the City and the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular respect, any of the terms or provisions contained herein.

(b) If at any time the City shall request the Trustee to enter into a supplement pursuant to this Section, the Trustee shall, upon being satisfactorily and specifically indemnified by the City with respect to expenses with respect to such supplement, cause notice of the proposed execution of such Supplement to be mailed by first class mail, postage pre-paid, to the Owner at its address as it appears on the registration books herein provided for, by the means provided in Article XI. Such notice shall briefly set forth the nature of the proposed supplement and shall state that copies thereof are on file at the office of the Trustee for inspection by the Owner.

(c) If within such period as shall be prescribed by the City, following the mailing of such notice, the Trustee shall receive an instrument purporting to be executed by the Owner specified in subsection (a) for the supplement in question which instrument or instruments shall refer to the proposed Supplement described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice as on file with the Trustee, thereupon, but not otherwise, the Trustee and the City may execute such supplement in substantially such form, without liability or responsibility to any Owner of any Series 2022 Obligation, whether or not such Owner shall have consented thereto.

(d) Any such consent shall be binding upon the Owner giving such consent and upon any subsequent Owner and of any Series 2022 Obligation executed and delivered in exchange therefor (whether or not such subsequent Owner thereof has notice thereof), unless such consent is revoked in writing by the Owner giving such consent or by a subsequent Owner thereof by filing with the Trustee, prior to the execution by the Trustee of such supplement, such revocation. At any time after the Owner shall have filed its consent to the supplement, the Trustee shall make and file with the City a written statement to that effect. Such written statement shall be conclusive that such consents have been so filed.

(e) If the Owner shall have consented to and approved the execution of such Supplement as herein provided, no Owner of any Series 2022 Obligation shall have any right to object to the execution thereof, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 9.3 Execution and Effect of Supplements.

(a) In executing any Supplement permitted by this Article, the Trustee and the City shall be entitled to receive and to rely in good faith upon an Opinion of Counsel stating that the execution of such Supplement is authorized or permitted hereby. The Trustee may but shall not be obligated to enter into any such Supplement which affects the Trustee's own rights, duties or immunities.

(b) Upon the execution and delivery of any Supplement in accordance with this Article, the provisions hereof shall be modified in accordance therewith and such Supplement shall form a part hereof for all purposes and every Owner of a Series 2022 Obligation theretofore or thereafter executed and delivered hereunder shall be bound thereby.

(c) Any Series 2022 Obligation executed and delivered after the execution and delivery of any Supplement in accordance with this Article may, and if required by the Trustee shall, bear a notation in form approved by the Trustee as to any matter provided for in such Supplement. If the Trustee shall so determine, upon receipt of Special Counsel's Opinion, new Series 2022 Obligations so modified as to conform in the opinion of the Trustee to any such Supplement may be executed and delivered by the Trustee in exchange for and upon surrender of Series 2022 Obligations.

Section 9.4 Amendments to Utility System Purchase Agreement Not Requiring Consent of Owner. The Trustee may, without the consent of or notice to the Owner consent to and join with the City in the execution and delivery of any amendment, change or modification of the Utility System Purchase Agreement as may be required (i) by the provisions thereof; (ii) to cure any ambiguity or formal defect or omission therein or to correct or supplement any provision therein which may be inconsistent with any other provision therein, or to make any other provisions with respect to matters or questions arising thereunder provided such action shall, in the opinion of counsel delivered to the Trustee under this Section, not materially adversely affect the interests of the Owner; and (iii) to preserve the exclusion of the interest on

the Series 2022 Obligations from gross income for purposes of federal or State income taxes and to preserve the power of the City to continue to incur obligations (specifically not limited to the Series 2022 Obligations authorized hereby) the interest on which is likewise exempt from federal and State income taxes in connection with any other change therein, which will not, in the opinion of counsel delivered to the Trustee under this Section 9.4, materially adversely affect the interests of the Owner or, in the opinion of the Trustee, the Trustee. In executing any amendment to the Utility System Purchase Agreement, the Trustee shall be entitled to receive and rely on an Opinion of Counsel stating that such amendment is authorized or permitted under this Agreement and under the Utility System Purchase Agreement.

Section 9.5 Amendments to Utility System Purchase Agreement Requiring Consent of Owner.

(a) Except for amendments, changes or modification to the Utility System Purchase Agreement referred to in Section 9.4 hereof and subject to the terms and provisions and limitations contained in this Article and not otherwise, the Trustee may consent to and join with the City in the execution and delivery of any amendment, change or modification to the Utility System Purchase Agreement only upon the consent of the Owner, given as provided in this Section, provided, however, no such amendment, change or modification may affect the obligation of the City to make payments under the Utility System Purchase Agreement or reduce the amount of or extend the time for making such payments without the consent of the Owner.

(b) If at any time the City shall request the consent of the Trustee to any such amendment, change or modification to the Utility System Purchase Agreement, the Trustee shall, upon being satisfactorily indemnified by the City with respect to expenses, cause notice of the proposed amendment, change or modification to be given in the same manner as provided in Section 9.2 with respect to Supplements hereto. Such notice shall briefly set forth the nature of the proposed amendment, change or modification and shall state that copies thereof are on file at the office of the Trustee for inspection by the Owner.

(c) If the consent to and approval of the execution of such amendment, change or modification is given by the Owner within the time and in the manner provided by Section 9.2 with respect to Supplements hereto, but not otherwise, such amendment, change or modification may be consented to, executed and delivered upon the terms and conditions and with like binding effect upon the Owners as provided in Section 9.2 and Section 9.3 with respect to Supplements hereto.

ARTICLE X
SATISFACTION AND DISCHARGE

Section 10.1 Discharge.

(a) If payment of all principal of and interest on the Series 2022 Obligation is made in accordance with its terms and as provided herein and in Section 2.5 of the

Utility System Purchase Agreement, or is provided for in accordance with this Article, and if all other sums, if any, payable hereunder shall be paid, then the liens, estates and security interests granted hereby shall cease. Thereupon, upon the request of the City, and upon receipt by the Trustee of an Opinion of Counsel addressed to the City and the Trustee stating that all conditions precedent to the satisfaction and discharge of the lien hereof have been satisfied, the Trustee shall execute and deliver proper instruments acknowledging such satisfaction and discharging the lien hereof and the Trustee shall transfer all property held by it hereunder, other than moneys or obligations held by the Trustee for payment of amounts due or to become due on the Series 2022 Obligations and to the City or such other Person as may be entitled thereto as their respective interests may appear. Such satisfaction and discharge shall be without prejudice to the rights of the Trustee thereafter to charge and be indemnified, compensated or reimbursed for services rendered and expenditures incurred in connection herewith.

(b) The City may at any time surrender to the Trustee for cancellation any Series 2022 Obligations previously executed and delivered which the City may have acquired in any manner whatsoever and such Series 2022 Obligations upon such surrender and cancellation shall be deemed to be paid and retired.

Section 10.2 Providing for Payment of Series 2022 Obligations.

(a) Payment of all or any part of the Series 2022 Obligations may be provided for by the deposit with the Trustee or a Depository Trustee of moneys or Defeasance Obligations which are not redeemable in advance of their maturity dates. The moneys and the maturing principal and interest income on such Defeasance Obligations, if any, shall be sufficient, as evidenced by a certificate of an independent nationally recognized certified public accountant or firm of such accountants acceptable to such Depository Trustee, to pay when due the principal of and interest on such Series 2022 Obligations. The moneys and Defeasance Obligations shall be held by the Trustee or such Depository Trustee irrevocably in trust for the Owner solely for the purpose of paying the principal of and interest on such Series 2022 Obligations as the same shall mature or come due.

(b) Notwithstanding the foregoing, no deposit under subsection (a) above shall be deemed a payment of such Series 2022 Obligation as aforesaid until the City, having given the Trustee irrevocable instructions in form satisfactory to the Trustee, to notify, as soon as practicable, the Owner that the deposit required by subsection (a) has been made with the Trustee.

(c) If payment of Series 2022 Obligations is so provided for, the Trustee or the Depository Trustee shall mail a notice so stating to the Owner.

(d) Series 2022 Obligations, the payment of which has been provided for in accordance with this Section, shall no longer be deemed outstanding hereunder or secured hereby. The obligation in respect of such Series 2022 Obligations shall nevertheless continue but the Owner shall thereafter be entitled to payment only from the moneys or Defeasance Obligations deposited with the Trustee or the Depository Trustee to provide for the payment of such Series 2022 Obligations.

(e) No Series 2022 Obligation may be so provided for if, as a result thereof or of any other action in connection with which the provisions for payment of such Series 2022 Obligation is made, the interest payable on any Series 2022 Obligation is made includable in gross income for purposes of federal income taxes. The Trustee and the City may rely upon a Special Counsel's Opinion to the effect that the provisions of this paragraph will not be breached by so providing for the payment of any Series 2022 Obligations.

Section 10.3 Payment of Series 2022 Obligations After Discharge. Notwithstanding the discharge of the lien hereof as in this Article provided, the Trustee shall nevertheless retain such rights, powers and duties hereunder as may be necessary and convenient for the payment of amounts due or to become due on the Series 2022 Obligations and the registration, transfer, exchange and replacement of Series 2022 Obligations as provided herein. Nevertheless, any moneys held by the Trustee for the payment of the principal of or interest on any Series 2022 Obligation remaining unclaimed for two years after the same shall become due and payable at maturity by declaration as provided herein, shall then be paid to the City (without liability for interest) and the Owner of any Series 2022 Obligations not theretofore presented for payment shall thereafter be entitled to look only to the City for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease. The obligations of the Trustee under this Section shall be subject, however, to the requirements of any applicable law regarding the disposition of unclaimed property.

ARTICLE XI
MISCELLANEOUS

Section 11.1 Evidence of Acts of Owner.

(a) Any request, direction, consent or other instrument provided hereby to be signed and executed by the Owner may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owner in person or by agent appointed in writing. Proof of the execution of any such request, direction or other instrument or of the writing appointing any such agent and of the ownership of Series 2022 Obligations, if made in the following manner, shall be sufficient for any of the purposes hereof and shall be conclusive in favor of the Trustee and the City, with regard to any action taken by them, or either of them, under such request or other instrument, namely:

(i) The fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments in such jurisdiction, that the Person signing such writing acknowledged before him the execution thereof, or by the affidavit of a witness of such execution; and

(ii) The ownership of Series 2022 Obligations shall be proved by the register of such Series 2022 Obligations.

(b) Nothing in this Section shall be construed as limiting the Trustee to the proof herein specified, it being intended that the Trustee may accept any other evidence of the matters herein stated which it may deem sufficient.

(c) Any action taken or suffered by the Trustee pursuant to any provision hereof, upon the request or with the assent of any Person who at the time is the Owner, shall be conclusive and binding upon all future Owners.

Section 11.2 Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Agreement or the Series 2022 Obligations is intended or shall be construed to give to any Person other than the parties hereto, the City and the Owner any legal or equitable right, remedy or claim under or in respect to this Agreement or any covenants, conditions and provisions herein contained.

Section 11.3 Severability. If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof, or the Series 2022 Obligations executed and delivered pursuant hereto, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

Section 11.4 Holidays. When the date on which principal of or interest on any Series 2022 Obligation is due and payable is not a Business Day, payment may be made on Series 2022 Obligations presented at such place of payment on the next Business Day with effect as though payment were made on the due date, and, if such payment is made, no additional interest shall accrue from and after such due date. When any other action is provided herein to be done on a day named or within a time period named, and the day or the last day of the period falls on a day other than a Business Day, it may be performed on the next ensuing Business Day with effect as though performed on the appointed day or within the specified period.

Section 11.5 Governing Law. This Agreement and the Series 2022 Obligations are contracts made under the laws of the State and shall be governed and construed in accordance with such laws.

Section 11.6 Notices.

(a) Unless otherwise expressly specified or permitted by the terms hereof, all notices, consents or other communications required or permitted hereunder shall be deemed sufficiently given or served if given in writing, mailed by first class mail, postage prepaid and addressed as follows:

(i) If to the Trustee, addressed to it at _____, Attention: Corporate Trust Services;

(ii) If to the registered Owner of a Series 2022 Obligation, addressed to such Owner at the address shown on the registration books kept pursuant hereto; provided, however, that while the Bank is the Owner of the Obligations, the following address: _____, Attention: _____; and

(iii) If to the City, addressed to it at 211 West Aspen Avenue, Flagstaff, Arizona, 86001, Attention: Management Services Director.

(b) The parties listed above may from time to time by notice in writing to the others designate a different address or addresses for notices hereunder.

Section 11.7 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute one instrument.

Section 11.8 Waiver of Personal Liability. No director, officer, agent, financial advisor, counsel or employee of the City shall be individually or personally liable for the payment of the principal of or interest on the Series 2022 Obligations; but nothing herein contained shall relieve any such director, officer, agent, financial advisor, counsel or employee from the performance of any official duty provided by law.

Section 11.9 Binding Effect. This instrument shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns subject to the limitations contained herein. Except as provided herein, the trust under this Agreement shall not be assigned to any other person, corporation, partnership or trustee unless the Trustee is required by law to divest, or does divest, itself of its trust department or unless the Trustee shall sell or assign substantially all of its corporate trust business in which event the trust hereunder shall be continued by the Trustee's successor in interest.

Section 11.10 Certain Statutory Notices.

(a) To the extent applicable by provision of law, the Trustee acknowledges that this Agreement is subject to cancellation pursuant to Section 38-511, Arizona Revised Statutes, the provisions of which are incorporated herein and which provides that the City may within three (3) years after its execution cancel any contract (including this Agreement) without penalty or further obligation made by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City is at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract.

(b) To the extent applicable under Section 41-4401, Arizona Revised Statutes, the Trustee shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the E-verify requirements under Section 23-214(A), Arizona Revised Statutes. The breach by the Trustee of the foregoing shall be deemed a material breach of this Agreement and may result in the termination of the services of the Trustee by the City. The City retains the legal right to randomly inspect the papers and records of the Trustee to ensure that the Trustee is complying with the above-mentioned warranty. The Trustee shall keep such papers and records open for random inspection during normal business hours by the City. The Trustee shall cooperate with the random inspections by the City including granting the City entry rights onto its property to perform such random inspections and waiving its respective

rights to keep such papers and records confidential. To the extent it may agree to do so pursuant to applicable law, the City shall preserve the confidentiality of any information, records or papers the City views, accesses or otherwise obtains during any and every such random inspection, including, without limitation, such information.

(c) Pursuant to Section 35-393 et. seq., Arizona Revised Statutes, the Trustee hereby certifies it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel. The term "boycott" has the meaning set forth in Section 35-393, Arizona Revised Statutes. If the City determines that the Trustee's certification above is false or that it has breached such agreement, the City may impose remedies as provided by law.

Section 11.11 Electronic Instructions. The Trustee shall have the right to accept and act upon Instructions. If the City elects to give the Trustee Instructions and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The City understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the City. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the City; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 11.12 Force Majeure. The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, "acts of God", terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other like occurrences beyond the control of the Trustee; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

* * *

[Signature page follows.]

IN WITNESS WHEREOF, the City has caused these presents to be signed in the name and on its behalf by its duly authorized officer, and to evidence its acceptance of the trusts hereby created the Trustee has caused these presents to be signed in its name and on its behalf by its duly authorized officer, all as of the day and year first above written.

_____, as Trustee

By.....
Authorized Representative

CITY OF FLAGSTAFF, ARIZONA

By.....
Mayor

ATTEST:

.....
Clerk

EXHIBIT

(Form of Series 2022 Obligation)

CITY OF FLAGSTAFF, ARIZONA
UTILITY SYSTEM REVENUE AND
REVENUE REFUNDING OBLIGATION, SERIES 2022

Number: R-……..

Interest Rate:	Payment Date:	Dated:
_____%	July 1, 20__	_____, 2022

REGISTERED OWNER: …….

PRINCIPAL AMOUNT: ……. DOLLARS

The registered owner identified above, or registered assigns, as the registered owner of this Utility System Revenue and Revenue Refunding Obligation, Series 2022 (this "*Obligation*"), is the owner of the right to receive certain installments of the "Purchase Price" pursuant to that certain Series 2022 Utility System Revenue Purchase Agreement, dated as of _____ 1, 2022 (the "*Utility System Purchase Agreement*"), by and between ……., a national banking association, authorized to exercise trust powers in the State of Arizona, in its separate capacity as seller (the "*Seller*"), and the City of Flagstaff, Arizona, a municipal corporation of the State of Arizona, as purchaser (the "*City*"), which installments and certain other rights and interests under the Utility System Purchase Agreement have been assigned to ……., in its separate capacity as trustee (together with any successor thereto, the "*Trustee*"), pursuant to that certain Series 2022 Utility System Revenue Trust Agreement, dated as of _____ 1, 2022 (the "*Trust Agreement*"), by and between the City and the Trustee.

The registered owner of this obligation is entitled to receive, subject to the terms of the Trust Agreement, the principal amount set forth above, on the payment date set forth above, and to receive on _____ 1, 20__, and semiannually on _____ 1 and _____ 1 of each year thereafter until payment in full of said principal, the registered owner's proportionate share of the installments of the Purchase Price denominated as interest coming due during the six month period (or portion thereof) immediately preceding each of such dates; provided that the first installment shall be for interest from the date of initial execution and delivery to _____ 1, 20__. Said proportionate share of the portion of such installments designated as interest is the result of the multiplication of the aforesaid portion of such installments designated as principal by the rate per annum set forth above.

The proportionate share of the portion of the installments of the Purchase Price denominated as interest is payable when due to the person in whose name this obligation is

registered at the close of business on the 15th day of the calendar month next preceding such interest payment date, except that interest not duly paid or provided for when due shall be payable to the person in whose name this obligation is registered at the close of business on a special record date to be fixed for the payment of defaulted interest. Such defaulted interest shall be payable to the person in whose name such obligation is registered at the close of business on a special record date for the payment of such defaulted interest established by notice mailed to the owner of the obligation not less than 15 days preceding such special record date. Such notice shall be mailed to the owner in whose name this obligation is registered at the close of business on the fifth day preceding the date of mailing. If the Trustee registers the transfer on any obligation subsequent to the mailing of such notice and on or before the special record date, any such notice of payment of defaulted interest shall be binding upon the transferee and a copy of the notice of payment of defaulted interest shall be delivered by the Trustee to the transferee along with the obligation or obligations. (Any payment due hereon which shall not be paid when due shall bear interest at the rate of interest, compounded semiannually, set forth above from the date such payment is due until the payment is made.)

Principal of and interest on this obligation are payable in lawful money of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts. Payments of principal and interest (other than those due on the Payment Date identified above) will be made by wire transfer of immediately available funds. Payments of principal and interest due on such Payment Date will be paid upon physical delivery and surrender of this obligation to the Trustee.

This obligation is one of a series, limited in aggregate original principal amount of $____,000 (the *"Series 2022 Obligations"*), executed and delivered under the Trust Agreement which are limited, special revenue obligations, payable solely from the sources (particularly the Utility System Purchase Agreement) and in the manner described in the Trust Agreement, in order to finance certain property comprising the works of the utility system of the City. The payments to be made by the City pursuant to the Utility System Purchase Agreement are to be in an amount sufficient to make the payments due on the Series 2022 Obligations, and payments by the City under the Utility System Purchase Agreement are to be made from, and secured by a pledge of, certain revenues to be derived by the City from such system. Under the restrictions set out in the Utility System Purchase Agreement, additional parity obligations have been and may be incurred by the City payable from such revenues. (No senior obligations may be incurred by the City payable from such revenues.) For a more complete statement of the provisions made to secure payment of the Series 2022 Obligations, the revenues from and conditions under which this obligation is payable, statements of the terms under which the Utility System Purchase Agreement may be modified and the general covenants and provisions pursuant to which this obligation is issued, reference is made to the Trust Agreement.

This obligation shall not constitute a debt of the City, the State of Arizona or any political subdivision thereof within the meaning of any provision of the Constitution or laws of the State of Arizona and shall not constitute or give rise to a pecuniary liability of the City, the State or any other political subdivision thereof or a charge against the general credit or taxing powers of any of them. This obligation and the interest hereon are enforceable exclusively from the revenues pledged thereto in the Utility System Purchase Agreement, and no owner hereof

shall have the right to compel any exercise of the taxing power of the City to pay this obligation or the interest hereon.

Counterparts or copies of the Trust Agreement and the other documents referred to herein are on file at the designated office of the Trustee, and reference is hereby made thereto and to the documents referred to therein for the provisions thereof, including the provisions with respect to the rights, obligations, duties and immunities of the Trustee, the City, and the registered owners of the Series 2022 Obligations under such documents, to all of which the registered owner hereof, by acceptance of this obligation, assents.

Principal of this obligation is not subject to optional prepayment.

Principal on the Series 2022 Obligation shall be prepaid on July 1 of the years indicated and in the principal amounts indicated at a price equal to the amount thereof plus accrued interest to the date of prepayment, but without premium, with a final maturity amount of $____,000 payable in 20__:

Year Prepaid	Principal Amount Prepaid

The registered owner of this obligation shall have no right to enforce the provisions of the Trust Agreement or to institute an action to enforce the covenants thereof, or to take any action with respect to a default hereof, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Trust Agreement.

The Trust Agreement and other documents referred to therein may be modified or amended to the extent permitted by and as provided therein. Certain amendments, modifications or changes which would affect the rights of registered owners of Series 2022 Obligations may be made only with the consent of the registered owners of this Obligation, as provided in the Trust Agreement. Any such consent by the registered owner of this obligation shall be conclusive and binding upon such registered owner and all subsequent registered owners. However, as to certain other amendments which will not materially adversely affect the interests of the registered owners, no consent of any owner shall be required.

The Series 2022 Obligations are and shall be executed and delivered only in fully registered form.

This obligation is transferable by the registered owner thereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Trustee, but only in the manner and subject to the limitations provided for in the Trust Agreement and upon

surrender and cancellation of this obligation. Upon such transfer, a new Series 2022 Obligation or Series 2022 Obligations of the remaining aggregate principal amount payable at maturity will be executed and delivered to the transferee in exchange for such Series 2022 Obligation.

The Trustee may require a registered owner, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Trust Agreement in connection with any exchange or transfer.

The Trustee may treat the registered owner of this obligation as the absolute owner for the purpose of receiving payment as herein provided and for all other purposes and none of them shall be affected by any notice to the contrary.

As used herein, the term "owner" means the person who at the time of any payment of a Series 2022 Obligation is entitled under the terms of such Series 2022 Obligation to payment thereof.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the execution and delivery of this obligation have existed, have happened and have been performed in due form, time and manner as required by law.

IN TESTIMONY WHEREOF, this obligation has been executed and delivered by the Trustee, acting pursuant to the Trust Agreement.

Date: .....

_____, as Trustee

By.....
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto .....
(Please Print or Typewrite Name, Address and Social Security Number or other Federal Tax Identification Number of Transferee) the within obligation and all rights thereunder, and hereby irrevocably constitutes and appoints ..... attorney to transfer the within obligation on the books kept for registration thereof, with full power of substitution in the premises.

Dated: .....

Signature Guaranteed:

.....	.....
(Signature guarantee should be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee).	Notice: The signature(s) on this assignment must correspond with the name(s) as written on the face of the within obligation in every particular without alteration or enlargement or any change whatsoever.

The following abbreviations, when used in the inscription on the face of the within obligation, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common	UNIF GIFT/TRANS MIN ACT -- ..... (Cust.)
TEN ENT -- as tenants by the entireties	Custodian for ..... Under Uniform (Minor)
JT TEN -- as joint tenants with right of survivorship and not as tenants in common	Gifts/Transfers to Minors Act of ..... (State)

Additional abbreviations may also be used, though not in the above list.

(END OF FORM OF SERIES 2022 OBLIGATION)

RESOLUTION NO. 2019-42

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, DECLARING, FOR PURPOSES OF SECTION 1.150 2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES RELATING TO THE MUNICIPAL COURT FACILITIES PROJECT, WATER PROJECTS, WASTEWATER PROJECTS, AND STORMWATER PROJECTS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff, Arizona, a political subdivision of the State of Arizona (hereinafter referred to as the "City"), is authorized and empowered to finance the costs of various capital facilities and equipment owned or to be owned by the City; and

WHEREAS, it is contemplated that certain expenditures made by the City with regard to capital facilities and equipment owned or to be owned by the City will be reimbursed from the financing proceeds in the future by or on behalf of the City.

ENACTMENTS:

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

SECTION 1. Definitions. The following terms shall have the meanings assigned thereto as follows:

"Official intent" means a declaration of intent of the City to reimburse an original expenditure with proceeds of an obligation.

"Original expenditure" means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond.

"Reimbursement bond" means the portion of an issue of obligations allocated to reimburse an original expenditure that was paid before the issue date of such issue.

SECTION 2. Official Intent. This Resolution is official intent relating to reimbursement for the original expenditures indicated in Exhibit A attached hereto which are capital expenditures [being any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles].

SECTION 3. Project Descriptions. The projects for which such original expenditures are to be paid are for those described on the Exhibit A attached hereto and the maximum principal amount of obligations (including the reimbursement bonds for such purposes) to be issued for such projects will not exceed $41,000,000.

SECTION 4. Reasonableness of Official Intent. On the date of this Resolution, the Council of

the City has a reasonable expectation (being that a prudent person in the same circumstances would have based on all the objective facts and circumstances) that it will reimburse such original expenditures with proceeds of such obligations. [Official intents have not been declared by the Council of the City as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for such projects. Moreover, the Council of the City does not have a pattern (other than in extraordinary circumstances) of failure to reimburse actual original expenditures covered by official intents.]

SECTION 5. Reimbursement Period. With certain exceptions, an allocation in writing that evidences use of proceeds of the reimbursement bonds to reimburse the original expenditures shall be made not later than 18 months after the later of the date that the original expenditure is paid or the date the project is "placed in service," but in no event more than 3 years after the original expenditure is paid. The City is allowed to reimburse for expenditures up to 60 days prior to the date of the resolution adoption.

SECTION 6. Public Record. This Resolution shall be included as of the date hereof in the publicly available official records of the City, such records being maintained and supervised by the Clerk of the City, being the main administrative office of the City, and shall remain available for public inspection on a reasonable basis.

SECTION 7. Effective Date. This resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of September 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

For

CITY ATTORNEY

Exhibits:
Exhibit A – Original Expenditures Intended to be Reimbursed as of July 5, 2019

EXHIBIT A

ORIGINAL EXPENDITURES INTENDED TO BE REIMBURSED
AS OF JULY 5, 2019

Description of Original Expenditures	Amount of Expenditures
Municipal Court Facilities	$ 16,000,000
Water Projects	$ 3,000,000
Wastewater Projects	$ 4,000,000
Stormwater Projects	$ 18,000,000

12. G.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Rick Tadder, Management Services Director
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Adoption of Resolution No. 2022-14: A resolution of the Flagstaff City Council, declaring, for the purposes of Section 1.150-2 of the Federal Treasury Regulations, official intent to be reimbursed in connection with certain capital expenditures relating to the Wastewater Projects, Reclaimed Water Projects, Stormwater Projects and Transportation Projects, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2022-14 by title only
2) City Clerk reads Resolution No. 2022-14 by title only (if approved above)
3) Adopt Resolution No. 2022-14

Executive Summary:

This resolution will allow the City to reimburse itself for expenditures made on wastewater, reclaimed water, stormwater and transportation projects that are currently being planned or under construction in advance of issuing the debt (bonds) for the projects. Federal regulations provide that the City may reimburse itself for expenditures incurred prior to the issuing of debt so long as this type of resolution is adopted. Without the resolution, only City construction expenditures incurred after the issuance of debt would be allowed.

Financial Impact:

In development of the City's 5-year plans, there is often the consideration of debt financing for capital projects, operations and capital when balancing cash flow needs. Furthermore, when developing rates and taxes the consideration of debt is considered. Our current 5-year plans show that our Wastewater, Reclaimed Water, Stormwater and Transportation funds may see a need to issue debt in the next two fiscal years. This reimbursement resolution does not have any direct financial impact, however it allows the City to move forward with capital projects prior to completion of future financing.

Policy Impact:

None

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Council Goals:

Environmental and Natural Resources: Actively manage and protect all environmental and natural resources.

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

Regional Plan:

Goal E&C.3. Strengthen community and natural environment resiliency through climate adaptation efforts.

Goal WR.2. Manage a coordinated system of water, wastewater, and reclaimed water utility service facilities and resources at the City level and identify funding to pay for new resources.

Goal WR.4. Logically enhance and extend the City's public water, wastewater, and reclaimed water services including their treatment, distribution, and collection systems in both urbanized and newly developed areas of the City to provide efficient delivery of services.

Goal E&C.3. Strengthen community and natural environment resiliency through climate adaptation efforts.

Goal PF.2. Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

1. Approve the Reimbursement Resolution: This is the best option to allow the City the greatest flexibility to issue debt when it is most advantageous while allowing construction expenditures to occur; or
2. Do not approve the Reimbursement Resolution: If not approved, staff will need to quickly bring back a debt issuing ordinance for Council and would issue debt at the earliest possible time or projects would need to be delayed.

Background/History:

The current City 5-year plans demonstrate a need to issue debt to finance capital projects during fiscal year 2022-23 and 2023-24 in four of the City funds. This reimbursement resolution allows the City to begin construction on the capital projects prior to completing the financing. The Wastewater Fund shows $6.5 million in financing needed for infrastructure and facility improvement. The Reclaimed Water Fund shows $2.0 million in financing related to a reclaimed water line replacement to expand capacity. The Stormwater Fund shows $22.9 million for the Rio de Flag project and infrastructure projects located in east Flagstaff. A portion of the Stormwater projects will require a rate increase or approval of a bond ballot measure. The Transportation Fund shows $15.7 million for several transportation infrastructure projects. By financing transportation projects, it allow the completion much faster than a pay as you go financial plan.

When considering issuance of debt financing in our 5-year plans, the City also demonstrates the annual debt service requirements are funded for the length of the financing. This assures the City can pay our obligations by reserving future revenues.

Key Considerations:

IRS regulations are very specific as to what capital expenditures are eligible for reimbursement. These expenditures must be any cost of a type that is properly chargeable to a capital account (or would be or chargeable with a proper election) under general federal income tax guidelines.

Expanded Financial Considerations:

Utilizing a reimbursement resolution allows the City to issue debt at the appropriate time. In addition, there is value in not issuing debt for capital project prior to construction because the City will not incur interest expense.

Community Involvement:

Inform: This resolution informs the community of its intent to reimburse construction projects with future debt issuances.

Attachments: Res. 2022-14

RESOLUTION NO. 2022-14

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, DECLARING, FOR PURPOSES OF SECTION 1.150 2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES RELATING TO THE WASTEWATER PROJECTS, RECLAIMED WATER PROJECTS, STORMWATER PROJECTS AND TRANSPORTATION PROJECTS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff, Arizona, a political subdivision of the State of Arizona (hereinafter referred to as the "City"), is authorized and empowered to finance the costs of various capital facilities and equipment owned or to be owned by the City; and

WHEREAS, it is contemplated that certain expenditures made by the City with regard to capital facilities and equipment owned or to be owned by the City will be reimbursed from the financing proceeds in the future by or on behalf of the City.

ENACTMENTS:

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

SECTION 1. Definitions. The following terms shall have the meanings assigned thereto as follows:

"Official intent" means a declaration of intent of the City to reimburse an original expenditure with proceeds of an obligation.

"Original expenditure" means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond.

"Reimbursement bond" means the portion of an issue of obligations allocated to reimburse an original expenditure that was paid before the issue date of such issue.

SECTION 2. Official Intent. This Resolution is official intent relating to reimbursement for the original expenditures indicated in Exhibit A attached hereto which are capital expenditures [being any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles].

SECTION 3. Project Descriptions. The projects for which such original expenditures are to be paid are for those described on the Exhibit A attached hereto and the maximum principal amount of obligations (including the reimbursement bonds for such purposes) to be issued for such projects will not exceed $49,000,000.

SECTION 4. Reasonableness of Official Intent. On the date of this Resolution, the Council of the City has a reasonable expectation (being that a prudent person in the same circumstances would have based on all the objective facts and circumstances) that it will reimburse such original expenditures with proceeds of such obligations. [Official intents have not been declared by the Council of the City as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for such projects. Moreover, the Council of the City does not have a pattern (other than in extraordinary circumstances) of failure to reimburse actual original expenditures covered by official intents.]

SECTION 5. Reimbursement Period. With certain exceptions, an allocation in writing that evidences use of proceeds of the reimbursement bonds to reimburse the original expenditures shall be made not later than 18 months after the later of the date that the original expenditure is paid or the date the project is "placed in service," but in no event more than 3 years after the original expenditure is paid. The City is allowed to reimburse for expenditures up to 60 days prior to the date of the resolution adoption.

SECTION 6. Public Record. This Resolution shall be included as of the date hereof in the publicly available official records of the City, such records being maintained and supervised by the Clerk of the City, being the main administrative office of the City, and shall remain available for public inspection on a reasonable basis.

SECTION 7. Effective Date. This resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 5th day of April 2022.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
Exhibit A – Original Expenditures Intended to be Reimbursed as of April 1, 2022

EXHIBIT A

ORIGINAL EXPENDITURES INTENDED TO BE REIMBURSED
AS OF APRIL 1, 2022

Description of Original Expenditures	Amount of Expenditures
Wastewater Projects	$ 10,000,000
Reclaimed Water Projects	$ 2,000,000
Stormwater Projects	$ 22,000,000
Transportation Projects	$ 15,000,000

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Jeremy DeGeyter, Project Manager
Co-Submitter:	Jeff Bauman
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Adoption of Resolution No. 2022-15: A resolution of the City of Flagstaff City Council, authorizing Amendment No. One to an Intergovernmental Agreement between the State of Arizona and the City of Flagstaff for the design and construction of a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/Lockett Road.

STAFF RECOMMENDED ACTION:

1. Read Resolution No. 2022-15 by title only
2. City Clerk reads Resolution No. 2022-15 by title only (if approved above)
3. Adopt Resolution No. 2022-15

Executive Summary:

Intergovernmental Agreement (IGA) Amendment No. One incorporates additional design scope to ensure the project fully mitigates impacts to surrounding properties, adds a City of Flagstaff role during construction inspections, and updates project costs based on the most recent estimates. The IGA Amendment No. One identifies an immediate need for additional City funding in the amount of $73,000 for additional design scope and project administration costs, increases the estimated City share for right-of-way acquisition costs by $500,000, and updates the City share of estimated construction costs to $1,614,225. The total project cost is estimated at $4,176,405. The total City financial commitment is currently estimated at $2,248,038. The City is responsible for any project costs in excess of the current Highway Safety Improvement Program (HSIP) grant award of $1,928,367.

A finalized draft of the IGA Amendment and a formal presentation will be prepared and included in the final packet to Council

Financial Impact:

This project is identified in the MetroPlan Transportation Improvement Program (TIP), Transportation TIP #101020, ADOT Project #T0247, and IGA #20-0007711.

Per the original IGA, the City paid the State $30,000 for Project Development Administration (PDA) costs and $450,000 in HSIP Federal Funds have been obligated for design costs. Per Amendment No. One, the City will pay $73,000 for additional design and PDA costs. City account #048-10-119-3450 (FY22, Intersection Improvements).

The City will acquire the necessary right-of-way with costs estimated at $623,211 and will be reimbursed

up to the HSIP formula limited amount, $92,398, with a projected City share of $530,813. City account #048-10-119-3450-6-4441 (FY22/23, Intersection Improvements). These amounts are estimates and when costs are finalized, additional funding shall be identified as needed.

$1,385,969 in HSIP Federal Funds will be available for the construction costs. The City is responsible for any project costs in excess of the current HSIP grant award of $1,928,366. The City of Flagstaff construction cost share estimate is currently $1,614,225.00. This amount is an estimate. The project has requested $1,750,000 in new City Transportation Tax FY 23 money to fund this shortfall. When costs are finalized, additional funding shall be identified as needed. City monies for construction shall be paid to ADOT prior to project advertisement currently anticipated in Fall 2022.

The total project cost is estimated at $4,176,405. The total City financial commitment is currently estimated at $2,248,038.

Policy Impact:

None.

Connection to PBB Priorities/Objectives, Carbon Neutrality Plan & Regional Plan:

Safe and Healthy Community - Foster a safe, secure, and healthy community. Ensure the built environment is safe through the use of consistent standards, rules and regulations, and land use practices.

Inclusive and Engaged Community - Advance social equity and social justice in Flagstaff.

Sustainable, Innovative Infrastructure - Deliver outstanding services to residents through a healthy, well maintained infrastructure system. Utilize existing long-range plans that identify the community's future infrastructure needs and all associated costs. Identify smart traffic management, multi-modal transportation, and alternative energy opportunities.

Environmental Stewardship - Implement sustainable building practices and alternative energy and transportation options. Implement, maintain and further the Climate Action and Adaptation Plan.

Regional Plan – Goal T.2. - Improve transportation safety and efficiency for all modes. T.2.1 - Design infrastructure to provide safe and efficient movement of vehicles, bicycles, and pedestrians.

Has There Been Previous Council Decision on This:

The Arizona Department of Transportation (ADOT) will administer the design and construction and advertise, bid and award the construction of a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/ Lockett Road. This roadway safety improvement project is the result of the City submitting a grant application to ADOT in 2018 for a competitive Highway Safety Improvement Program (HSIP) award. This project was identified as a high priority through a local network crash data screening process. The roundabout will improve safety, slow speeds, help avoid angle crashes, and add a crosswalk at the 4th-leg of the intersection.

Council approved an IGA between the City of Flagstaff and ADOT for this project on May 19th, 2020. The IGA directs ADOT to administer the design and construction and advertise, bid and award the construction of a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/ Lockett Road. The total HSIP Federal Funding was estimated to be $1,928,367 and the total City funding was estimated to be $60,813. Per the IGA, the City is responsible for any project costs in excess of the HSIP grant award of $1,928,367.

Options and Alternatives:

1. Approve amending the IGA with ADOT for the design and construction of a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/Lockett Road.

2. Deny approval of the proposed amendment to the IGA with ADOT. The project will be placed on hold.

Attachments: Res. 2022-15
Original IGA
IGA Amendment No. One
Project Location Map
Presentation

RESOLUTION NO. 2022-15

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AMENDMENT NO. ONE TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE ARIZONA DEPARTMENT OF TRANSPORTATION AND THE CITY OF FLAGSTAFF FOR THE DESIGN AND CONSTRUCTION OF A ROUNDABOUT AT THE SIGNALIZED INTERSECTION OF FOURTH STREET AND CEDAR AVENUE/LOCKETT ROAD

RECITALS:

WHEREAS, the Arizona Department of Transportation and City of Flagstaff desire to amend an intergovernmental agreement for designing and constructing a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/Lockett Road; (the "Project"); and

WHEREAS, the INTERGOVERNMENTAL AGREEMENT, IGA 20-0007711-I, A.G. Contract No. P001 2020 000797, was executed on May 29, 2020 (the "IGA"); and

WHEREAS, the Project will be designed and constructed per the contract documents, developed under IGA 20-0007711-I; and

WHEREAS, the parties to the IGA have updated information related to the scope and cost of the Project and this updated information is set forth in this proposed Amendment No. One; and

WHEREAS, the purpose of the IGA and this Amendment No. One is to set forth the parties' respective duties and obligations with respect to the design and construction of the Project; and

WHEREAS, the State is empowered by Arizona Revised Statutes § 28-401 and the City is empowered by Arizona Revised Statutes §§ 11-952 to amend this IGA; and

WHEREAS, the City Council has read and considered the staff summary report and proposed Amendment No. One attached thereto, and finds that it is in the best interests of the City to amend the IGA.

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 Amendment No. One to the IGA between the State of Arizona, acting by and through its Department of Transportation, 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 15th day of March, 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
Exhibit A – Amendment No. One

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ADOT CAR No.: IGA 20-0007711-I
AG Contract No.: P001 2020 000797
Project Location/Name: Fourth St/Cedar Ave/Lockett Rd Roundabout
Type of Work: Design and Construct Roundabout
Federal-aid No.: FLA-0(221)T
ADOT Project No.: T0247 01D/03D/01R/01C
TIP/STIP No.: 101020
CFDA No.: 20.205 - Highway Planning and Construction
Budget Source Item No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF

THIS AGREEMENT is entered into this date May 29, 2020, pursuant to the Arizona Revised Statutes ("A.R.S.") §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties."

I. RECITALS

1. The State is empowered by A.R.S. § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by A.R.S. § 11-952 to enter into this Agreement and has by resolution, a copy of which is attached and made a part of, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The improvements proposed in this Agreement, include design and construction of a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/Lockett Road, (the "Project"). The Project will also add a crosswalk at the 4th leg of the intersection. The State will administer the design and advertise, bid and award the construction phase of the Project. The City will administer the right-of-way acquisition for the Project.

4. The interest of the State in this Project is the acquisition of federal funds for the use and benefit of the City and authorization of such federal funds for the Project pursuant to federal law and regulations. The State shall be the designated agent for the City for the Project, if the Project is approved by Federal Highway Administration (FHWA) and funds for the Project are available.

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THEREFORE, in consideration of the mutual terms expressed in this Agreement, it is agreed as follows:

II. SCOPE OF WORK

1. The Parties agree:

   a. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Project plans and specifications.

   b. The final Project amount may exceed the initial estimate(s) identified in Exhibit A, and in such case, the City is responsible for, and agrees to pay, any and all actual costs exceeding the initial estimate. If the final bid amount is less than the initial estimate, the difference between the final bid amount and the initial estimate will be de-obligated or otherwise released from the Project. The City acknowledges it remains responsible for and agrees to pay according to the terms of this Agreement, any and all actual costs exceeding the final Project amount.

   c. The City and ADOT will each separately file a Notice of Intent (NOI) under the Construction General Permit (CGP) with the Arizona Department of Environmental Quality (ADEQ) before construction begins, if applicable to the Project.

2. The State will:

   a. Execute this Agreement, and if the Project is approved by FHWA and funds for the Project are available, be the City's designated agent for the Project.

   b. After this Agreement is executed, and prior to performing or authorizing any work, invoice the City for the initial Project Development Administration (PDA) costs, estimated at $30,000.00. If PDA costs exceed the estimate during the development of design, notify the City, obtain concurrence prior to continuing with the development of design, and invoice as determined by ADOT and the City for additional costs to complete PDA for the Project. After the Project costs are finalized invoice or reimburse the City for the difference between actual costs and the amount the City has already paid for PDA.

   c. Reimburse the City for the City's eligible incurred right-of-way acquisition expenditures, up to $92,398.00. Coordinate with the City as required for all right-of-way activities. Right-of-way acquisition is estimated at $123,211.00 of which the City's share is estimated at $30,813.00.

   d. After receipt of the PDA costs, on behalf of the City, prepare and provide all documents pertaining to the design and post-design of the Project, incorporating comments from the City, as appropriate. Review and approve documents required by FHWA to qualify the Project for and to receive federal funds. Perform tasks that may consist of, but are not limited to, preparation of environmental documents; analysis and documentation of environmental categorical exclusion determinations; geologic materials testing and

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analysis; right-of-way related activities; preparation of reports, design plans, maps, specifications and cost estimates and other related tasks essential to the development of the Project.

e. Submit all required documentation pertaining to the Project to FHWA with the recommendation that the maximum federal funds programmed for this Project be approved for scoping/design, right-of-way acquisition, and construction. After receipt of FHWA authorization, proceed to advertise for and enter into contract(s) with the consultant(s) for the design and post design of the Project. Should costs exceed the maximum federal funds available it is understood and agreed that the City will be responsible for any overage.

f. After completion of design and prior to bid advertisement, invoice the City for the actual PDA costs, as applicable. After the Project costs for construction are finalized, the State will either invoice or reimburse the City for the difference between estimated and actual costs. De-obligate or otherwise release any remaining federal funds from the scoping/design phase of the Project.

g. After receipt of the actual PDA costs, if applicable, submit all required documentation to FHWA with the recommendation that the maximum federal funds programmed for construction of this Project be approved. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage.

h. After receipt of FHWA authorization, proceed to advertise for, receive and open bids, award and enter into a contract with the firm for the construction of the Project. If the bid amounts exceed the construction cost estimate, obtain City concurrence prior to awarding the contract. After the Project is awarded, invoice the City for the difference between estimated and actual costs, if applicable.

i. Notify the City of substantial completion and final acceptance of the Project, as defined in the 2008 version of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction. At such time, file a Notice of Termination (NOT) with ADEQ transferring CGP responsibilities to the City, and provide a copy to the City indicating that the State's maintenance responsibility of the Project is terminated, as applicable.

j. Notify the City of substantial completion and final acceptance of the Project; coordinate with the City and turn over full responsibility of the Project improvements.

k. Not be obligated to maintain the Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

3. The City will:

a. Designate the State as the City's authorized agent for the Project.

b. Within 30 days of receipt of an invoice from the State, pay the initial PDA costs, estimated at $30,000.00. Agree to be responsible for actual PDA costs, if during the development of design, PDA costs exceed the initial estimate. Be responsible and pay for

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the difference between the estimated and actual PDA and design costs of the Project within 30 days of receipt of an invoice.

c. Invoice the State (no more than monthly) for the City's right-of-way acquisition expenditures providing all back-up documentation. Coordinate with the State as required for all right-of-way activities. Right-of-way acquisition is estimated at $123,211.00, of which the City's share is estimated at $30,813.00.

d. Review design plans, specifications, cost estimates, and other such documents required for the construction bidding and construction of the Project, including scoping/design plans and documents required by FHWA to qualify projects for and to receive federal funds; provide design review comments to the State as appropriate.

e. After completion of design, within 30 days of receipt of an invoice from the State and prior to bid advertisement, pay to the State, any outstanding PDA costs. Be responsible for and pay the difference between the estimated and actual construction costs of the Project, within 30 days of receipt of an invoice.

f. Be responsible for all costs incurred in performing and accomplishing the work as set forth under this Agreement, that are not covered by federal funding. Should costs be deemed ineligible or exceed the maximum federal funds available, it is understood and agreed that the City is responsible for these costs; payment for these costs shall be made within 30 days of receipt of an invoice from the State.

g. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid and also certify that all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, shall be removed from the proposed right-of-way, or will be removed prior to the start of construction, in accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended; 49 CFR 24.102 Basic Acquisition Policies; 49 CFR 24.4 Assurances, Monitoring and Corrective Action, parts (a) & (b) and ADOT Right of Way Procedures Manual: 8.02 Responsibilities, 8.03 Prime Functions, 9.06 Monitoring Process and 9.07 Certification of Compliance. Coordinate with the appropriate State's Right-of-Way personnel during any right-of-way process performed by the City, if applicable.

h. Certify that the City has adequate resources to discharge the City's real property related responsibilities and ensure that its Title 23-funded projects are carried out using the FHWA approved and certified ADOT Right of Way Procedures Manual and that they will comply with current FHWA requirements whether or not the requirements are included in the FHWA approved ADOT Right of Way Procedures Manual. (23 CFR 710.201)

i. Not permit or allow any encroachments on or private use of the right-of-way, except those authorized by permit. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

j. Automatically grant to the State, by execution of this Agreement, its agents and/or contractors, without cost, the temporary right to enter City rights-of-way, as required, to conduct any and all construction and preconstruction related activities for the Project,

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on, to and over said City rights-of-way. This temporary right will expire with completion of the Project.

k. Investigate and document utilities within the Project limits; submit findings to ADOT determining prior rights or no prior rights; approve an easement within the final right-of-way to re-establish the prior right location for those utilities with prior rights.

l. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase Project costs. Be responsible for the cost of any City requested changes to the scope of work of the Project, such changes will require State and FHWA approval. Be responsible for any contractor claims for additional compensation caused by Project delay attributable to the City. Payment for these costs will be made to the State within 30 days of receipt of an invoice from the State.

m. After notification of final acceptance by the State, assume and maintain full responsibility of the Project, including Storm Water Pollution Prevention Plans (SWPPP) inspections, maintenance, and required documentation, until final stabilization is reached. Provide the NOI number to the State and the Contractor, accept CGP responsibilities at time of transfer, and file a NOT with ADEQ when final stabilization is reached, as applicable.

n. After completion and final acceptance of the Project, agree to maintain and assume full responsibility of the Project and all Project components.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

2. Any change or modification to the Project will only occur with the mutual written consent of both Parties.

3. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the Project and all related deposits and/or reimbursements are made. Any provisions for maintenance shall be perpetual, unless assumed by another competent entity.

4. This Agreement may be cancelled at any time up to 30 days before the award of the Project contract, so long as the cancelling Party provides at least 30 days' prior written notice to the other Party. It is understood and agreed that, in the event the City terminates this Agreement, the City shall be responsible for all costs incurred by the State up to the time of termination. It is further understood and agreed that in the event the City terminates this Agreement, the State shall in no way be obligated to complete or maintain the Project.

5. The City shall indemnify, defend, and hold harmless the State, any of its departments, agencies, officers or employees (collectively referred to in this paragraph as the "State") from any and all claims, demands, suits, actions, proceedings, loss, cost and damages of every kind and description, including reasonable attorneys' fees and/or litigation expenses (collectively referred to in this paragraph as the "Claims"), which may be brought or made

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against or incurred by the State on account of loss of or damage to any property or for injuries to or death of any person, to the extent caused by, arising out of, or contributed to, by reasons of any alleged act, omission, professional error, fault, mistake, or negligence of the City, its employees, officers, directors, agents, representatives, or contractors, their employees, agents, or representatives in connection with or incident to the performance of this Agreement. The City's obligations under this paragraph shall not extend to any Claims to the extent caused by the negligence of the State, except the obligation does apply to any negligence of the City which may be legally imputed to the State by virtue of the State's ownership or possession of land. The City's obligations under this paragraph shall survive the termination of this Agreement.

6. The State shall include Section 107.13 of the 2008 version of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, incorporated into this Agreement by reference, in the State's contract with any and all contractors, of which the City shall be specifically named as a third-party beneficiary. This provision may not be amended without the approval of the City.

7. The cost of scoping, design, construction and construction engineering work under this Agreement is to be covered by the federal funds programmed for this Project, up to the maximum available. The City acknowledges that actual Project costs may exceed the maximum available amount of federal funds, or that certain costs may not be accepted by FHWA as eligible for federal funds. Therefore, the City agrees to pay the difference between actual costs of the Project and the federal funds received.

8. Should the federal funding related to this Project be terminated or reduced by the federal government, or Congress rescinds, fails to renew, or otherwise reduces apportionments or obligation authority, the State shall in no way be obligated for funding or liable for any past, current or future expenses under this Agreement.

9. The cost of the Project under this Agreement includes indirect costs approved by FHWA, as applicable.

10. The Parties warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the City will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.

11. The City acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.

12. The City acknowledges compliance with federal laws and regulations and may be subject to the CODE OF FEDERAL REGULATIONS, TITLE 2, PART 200 (also known as The Uniform Grant Guidance). Entities that expend $750,000.00 or more (on or after 12/26/14) of federal assistance (federal funds, federal grants, or federal awards) are required to comply by having an independent audit in accordance with §200.331 Subpart F. Either an electronic or hardcopy of the Single Audit is to be sent to Arizona Department of Transportation Financial Management Services within the required deadline of nine months of the sub recipient fiscal year end.

ADOT – FMS
Attn: Cost Accounting Administrator
206 S 17th Ave. Mail Drop 204B

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Phoenix, AZ 85007
SingleAudit@azdot.gov

13. This Agreement shall be governed by and construed in accordance with Arizona laws.

14. This Agreement may be cancelled in accordance with A.R.S. § 38-511.

15. The City shall retain all books, accounts, reports, files and other records relating to the Agreement for five years after completion of the Project. These documents shall be subject at all reasonable times to inspection and audit by the State. Such records shall be produced by the City at the request of ADOT.

16. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The Parties to this Agreement shall comply with Executive Order Number 2009-09 issued by the Governor of the State of Arizona and incorporated in this Agreement by reference regarding "Non-Discrimination."

17. Non-Availability of Funds: Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

18. In the event of any controversy, which may arise out of this Agreement, the Parties agree to abide by arbitration as is set forth for public works contracts if required by A.R.S. § 12-1518.

19. The Parties shall comply with the applicable requirements of A.R.S. § 41-4401.

20. The Parties shall certify that all contractors comply with the applicable requirements of A.R.S. §35-393.01.

21. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

22. All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered electronically, in person, or sent by mail, addressed as follows:

For Agreement Administration:

Arizona Department of Transportation
Joint Project Agreement Section
205 S. 17th Avenue, Mail Drop 637E
Phoenix, AZ 85007
JPABranch@azdot.gov

City of Flagstaff
Attn: City Manager
211 W. Aspen Avenue
Flagstaff, AZ 86001
928.213.2053
greg.clifton@flagstaffaz.gov

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For Project Administration:

Arizona Department of Transportation
Project Management Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
PMG@azdot.gov

City of Flagstaff
Attn: Stephanie Sarty
211 W. Aspen Avenue
Flagstaff, AZ 86001
928.213.2692
ssarty@flagstaffaz.gov

For Financial Administration:

Arizona Department of Transportation
Project Management Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
PMG@azdot.gov

City of Flagstaff
Attn: Stacey Brechler-Knaggs
211 W. Aspen Avenue
Flagstaff, AZ 86001
928.213.2227
sknaggs@flagstaffaz.gov

23. Any revisions to the names and addresses above may be updated administratively by either Party and shall be in writing.

24. In accordance with A.R.S. § 11-952 (D), attached and incorporated in this Agreement is the written determination of each Party's legal counsel that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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

CITY OF FLAGSTAFF

By DocuSigned by: 641FFE1BD57E443...
CORAL EVANS
Mayor

ATTEST:

By DocuSigned by: F4D58CF260E2462...
STACY SALTZBURG
City Clerk

STATE OF ARIZONA
Department of Transportation

By DocuSigned by: 48C55E54D3CE49E...
BRENT A. CAIN, PE
Division Director

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IGA 20-0007711-I

ATTORNEY APPROVAL FORM FOR THE CITY OF FLAGSTAFF

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF FLAGSTAFF, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DocuSigned by:
Kevin R. Fincel
0B7BD25732E942E...

City Attorney

5/20/2020

Date

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EXHIBIT A

IGA 20-0007711-I
Cost Estimate

T0247 01D/03D/01R/01C

The federal funds will be used for the scoping/design and construction of the Project, including the construction engineering (CE) and administration cost. The estimated Project costs are as follows:

T0247 01D (ADOT Project Development Administration (PDA) Cost, non-federal-aid):	
PDA costs*	$ 30,000.00
T0247 03D (scoping/design):	
Federal-aid funds @ 100%	$ 450,000.00
Subtotal – Scoping/Design/PDA*	**$ 480,000.00**
T0247 01R (right-of-way):	
Federal-aid funds @ 100%	$ 92,398.00
City funds @ 100%	$ 30,813.00
Subtotal – Right-of-Way	**$ 123,211.00**
T0247 01C (construction):	
Federal-aid funds @ 100%	$ 1,385,969.00
Subtotal – Construction**	**$ 1,385,969.00**
Estimated TOTAL Project Cost	**$ 1,989,180.00**
Total Estimated City Funds	**$ 60,813.00**
Total Federal Funds	**$ 1,928,367.00**

* (Included in the City Estimated Funds)
** (Includes 15% CE (this percentage is subject to change, any change will require concurrence from the City) and 5% Project contingencies)

RESOLUTION NO. 2020-27

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE CITY OF FLAGSTAFF FOR DESIGN AND CONSTRUCTION OF A ROUNDABOUT AT THE SIGNALIZED INTERSECTION OF FOURTH STREET AND CEDAR AVENUE/LOCKETT ROAD.

RECITALS:

WHEREAS, the State of Arizona, acting by and through its Department of Transportation (ADOT), and City of Flagstaff desire to enter into an intergovernmental agreement for the purpose of designing and constructing a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/Lockett Road;

WHEREAS, the State will administer the design and advertise, bid and award the construction of the roundabout at the signalized intersection of Fourth Street and Cedar Avenue/Lockett Road.

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 the State of Arizona and the City of Flagstaff, Arizona, attached hereto as Exhibit A.

SECTION 2. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 19th day of June, 2020.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits: IGA

MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
STATE GOVERNMENT DIVISION /
TRANSPORTATION SECTION

DAWN NORTHUP
DIVISION CHIEF COUNSEL
Eli D. Golob
ASSISTANT ATTORNEY GENERAL
DIRECT LINE: 602-542-8842
E-MAIL: ELI.GOLOB@AZAG.GOV

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. P0012020000797 **(ADOT IGA/JPA 20-0007711-I)**, an Agreement between public agencies, the State of Arizona and the City of Flagstaff, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and 28-401, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: May 29, 2020

MARK BRNOVICH
Attorney General

/s/ Eli D. Golob
_____
ELI D. GOLOB
Assistant Attorney General
Transportation Section

EDG/sp/8743178

ADOT File No.: IGA 20-0007711-I
Amendment No. One: 22-0008471-I
AG Contract No.: P001 2020 000797
Project Location/Name: Fourth St/Cedar Ave/Lockett Rd Roundabout
Type of Work: Design and Construct Roundabout
Federal-aid No.: FLA-0(221)T
ADOT Project No.: T0247 01D/03D/01R 01C
TIP/STIP No.: 101020
CFDA No.: 20.205 - Highway Planning and Construction
Budget Source Item No.: N/A

AMENDMENT NO. ONE
TO
INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF

THIS AMENDMENT NO. ONE to INTERGOVERNMENTAL AGREEMENT (the "Amendment No. One"), is entered into this date _____, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are each individually referred to as a "Party" and are collectively referred to as the "Parties."

WHEREAS, the INTERGOVERNMENTAL AGREEMENT, IGA 20-0007711-I, A.G. Contract No. P001 2020 000797, was executed on May 29, 2020, (the "Original Agreement");

WHEREAS, the State is empowered by A.R.S. § 28-401 to enter into this Amendment No. One and has delegated to the undersigned the authority to execute this Amendment No. One on behalf of the State;

WHEREAS, the City is empowered by A.R.S. § 48-572 to enter into this Amendment No. One and has by resolution, a copy of which is attached and made a part of, resolved to enter into this Amendment No. One and has authorized the undersigned to execute this Amendment No. One on behalf of the City; and

NOW THEREFORE, **in consideration of the mutual terms expressed herein, the purpose of this Amendment No. One is to revise the Project scope of work, costs, and replace Exhibit A. The City has requested additional improvements be included as part of the Project. The City will be responsible for the costs associated with the additional roadway and landscaping improvements, parking lot modifications and restriping, construction of a retaining wall, landscape/irrigation restoration, and replacement of existing sidewalk/accessible route connection. The Parties desire to amend the Original Agreement, as follows:**

Consistent with the Original Agreement, the City has been invoiced and paid $30,000.00 and will pay the remaining $73,000.00 for the City's share of PDA and design costs within 30 days of receipt of an invoice.

The Parties incorporate the Recitals set forth above as part of the body of this Amendment No. One.

I. RECITALS

(NO CHANGES)

II. SCOPE OF WORK

Section I, Paragraph 1.d. is added, as follows:

1. The Parties agree:

    d. The State may utilize the City's Inspectors on the Project as needed by the State's Resident Engineer, in accordance with the following: all ADOT policies and procedures will be applicable as coordinated with ADOT's Northcentral District (the "District") and the ADOT Construction Group. The City, District, and the Construction Group must agree on the City Inspector. The City's Engineering Director must provide ADOT's Construction Group, (for pre-approval), all required and current certifications and chargeable rates (labor and equipment). The City Local Inspector will report to ADOT's Resident Engineer and must comply with all ADOT hardware/software computer requirements, which includes maintaining the computer and any information in a secure location. The City Inspector must also utilize ADOT's automated system to complete the required weekly time sheet. The City Inspector will remain an employee of the City and will not be considered an ADOT employee during the term of this Agreement. The City will invoice monthly for reimbursement, and all charges must be kept current for both payment and federal reporting purposes. The City will be notified of all approvals by the ADOT Construction Group. The City agrees to provide an inspector dedicated to the project for a minimum of 8 hours per week. The City inspector will attend all weekly construction meetings and be available for inspections of the project within 30 minutes of notification by the ADOT Resident Engineer. The City billing rate will be as follows:
    - $44.00 per hour for burdened labor.
    - $6.00 per hour for phone, vehicle, and other incidentals.
        - $50.00 per hour maximum billing rate for each hour worked.

Section II, Paragraph 2.c. is revised, as follows:

2. The State will:

c. Reimburse the City for the City's eligible incurred right of way acquisition expenditures, up to $92,398.00. Coordinate with the City as required for all right of way activities. Right of way acquisition is estimated at $623,211.00 of which the City's share is estimated at $530,813.00

Section II, Paragraph 2.l. is added, as follows:

2. The State will:

l. After completion of design and prior to bid advertisement, invoice the City for the actual PDA costs, as applicable, and the City's share of the Project construction costs, estimated at $1,614,225.00. After the Project costs for construction are finalized, the State will either invoice or reimburse the City for the difference between estimated and actual costs. De-obligate or otherwise release any remaining federal funds from the scoping/design phase of the Project.

Section II, Paragraph 3.c. is revised, as follows:

3. The City will:

c. Invoice the State (no more than monthly) for the City's right of way acquisition expenditures providing all back-up documentation. Coordinate with the State as required for all right of activities. Right of way acquisition is estimated at $623,211.00, of which the City's share is estimated at $530,813.00

Section II, Paragraph 3.o. is added, as follows:

3. The City will:

o. After completion of design, within 30 days of receipt of an invoice from the State and prior to bid advertisement, pay to the State, any outstanding PDA costs and the City's share of the Project construction costs, estimated at $1,614,225.00. Be responsible for and pay the difference between the estimated and actual construction costs of the Project, within 30 days of receipt of an invoice.

III. MISCELLANEOUS PROVISIONS

Exhibit A to the Original Agreement is replaced by the Exhibit A attached to this Amendment No. One.

EXCEPT AS AMENDED, **ALL OTHER** terms and conditions of the Original Agreement remain in full force and effect.

THIS AMENDMENT NO. ONE shall become effective upon the signing and dating of all Parties.

IN ACCORDANCE WITH A.R.S. § 11-952 (D), the written determination of each Party's legal counsel providing that the Parties are authorized under the laws of this State to enter into this Amendment No. One and that the Amendment No. One is in proper form is set forth below.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. One the day and year first above written.

CITY OF FLAGSTAFF

By _____Date_____
PAUL DEASY
Mayor

ATTEST:

By _____Date_____
STACY SALTZBURG
City Clerk

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF FLAGSTAFF, an agreement among public agencies which, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 48-572 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement. Approved as to Form:

By _____ Date_____
City Attorney

ARIZONA DEPARTMENT OF TRANSPORTATION

By _____ Date_____
BRENT A. CAIN, PE
Transportation Systems Management and Operations Division Director

By _____ Date_____
STEVE BOSCHEN, PE
Infrastructure Delivery and Operations Division Director

A.G. Contract No. P001 2020 000797 (ADOT IGA 20-0007711-I, Amendment No. One: 22-0008471-I), an Agreement between public agencies, the State of Arizona and the City of Flagstaff has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 28-401 by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona. No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

By _____ Date_____
Assistant Attorney General

EXHIBIT A
IGA 20-0007711-I
Amendment No. One: 22-0008471-I
Cost Estimate

T0247 01D/03D/01R/01C

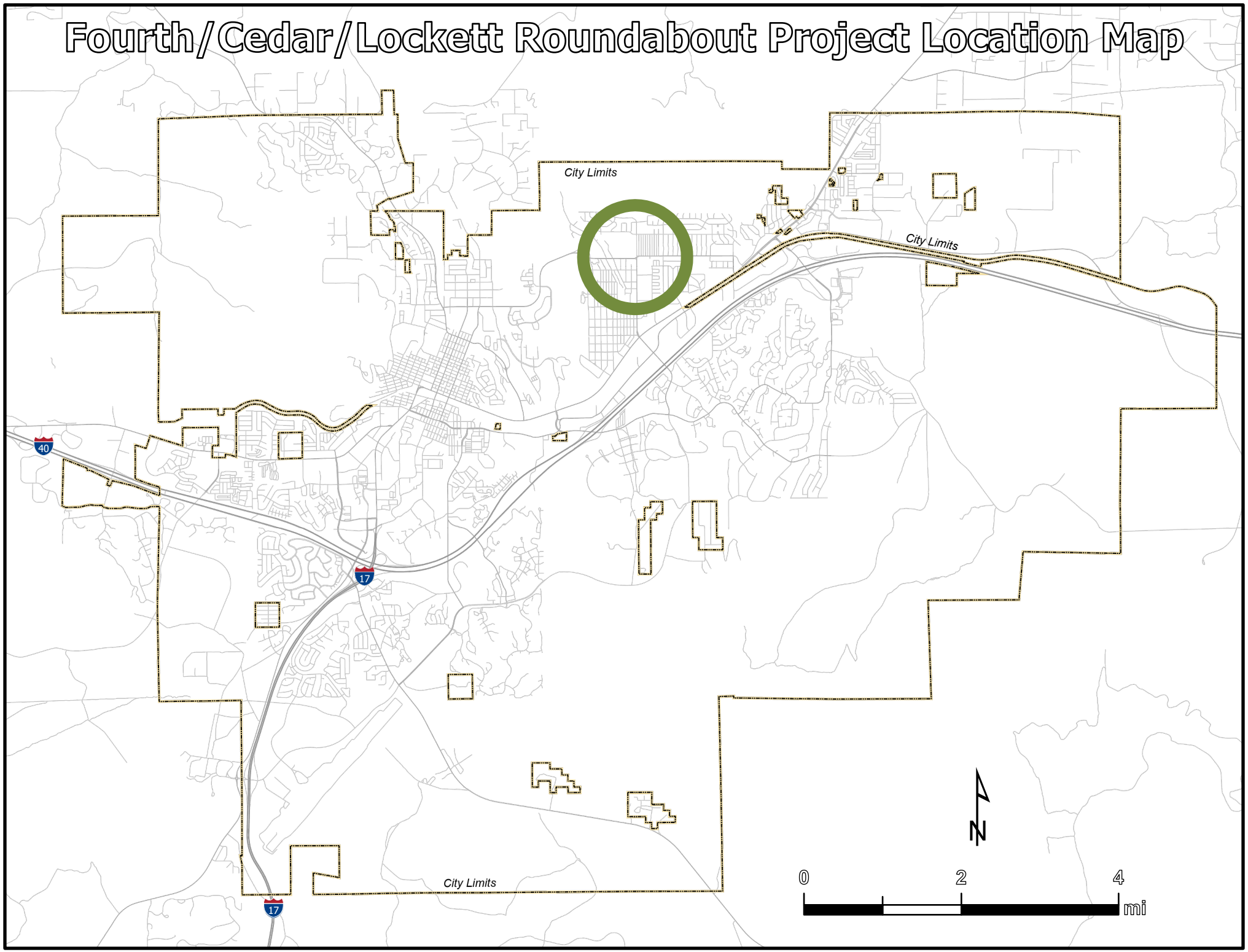
ADOT Project Development Administration (PDA) Cost, non-federal-aid:

PDA costs*	$	47,500.00
Scoping/Design:		
Federal-aid funds @ 100%	$	450,000.00
City funds @ 100% (Preliminary engineering for right of way)	$	25,000.00
City funds @ 100% (Additional scope of work)	$	30,500.00
Subtotal – Scoping/Design/PDA*	**$**	**553,000.00**
Right of Way:		
Federal-aid funds @ 100% (Reimburseable)	$	92,398.00
City funds @ 100%	$	530,813.00
Subtotal – Right of Way	**$**	**623,211.00**
Construction:		
Federal-aid funds @ 100%	$	1,385,969.00
City Funds @ 100%	$	1,614,225.00
Subtotal – Construction**	**$**	**3,000,194.00**
Estimated TOTAL Project Cost	**$**	**4,176,405.00**
Total Estimated City Funds	**$**	**2,248,038.00**
Total Federal Funds	**$**	**1,928,367.00**

* (Included in the City Estimated Funds; $30,000.00 has been invoiced and paid by the City)

** (Includes 15% CE (this percentage is subject to change, any change will require concurrence from the City) and 5% Project contingencies)

Fourth/Cedar/Lockett Roundabout Project Location Map



-Fourth Street-
-Cedar Avenue-
-Lockett Road-
Roundabout

April 5, 2022

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

Fourth/Cedar/Lockett Roundabout

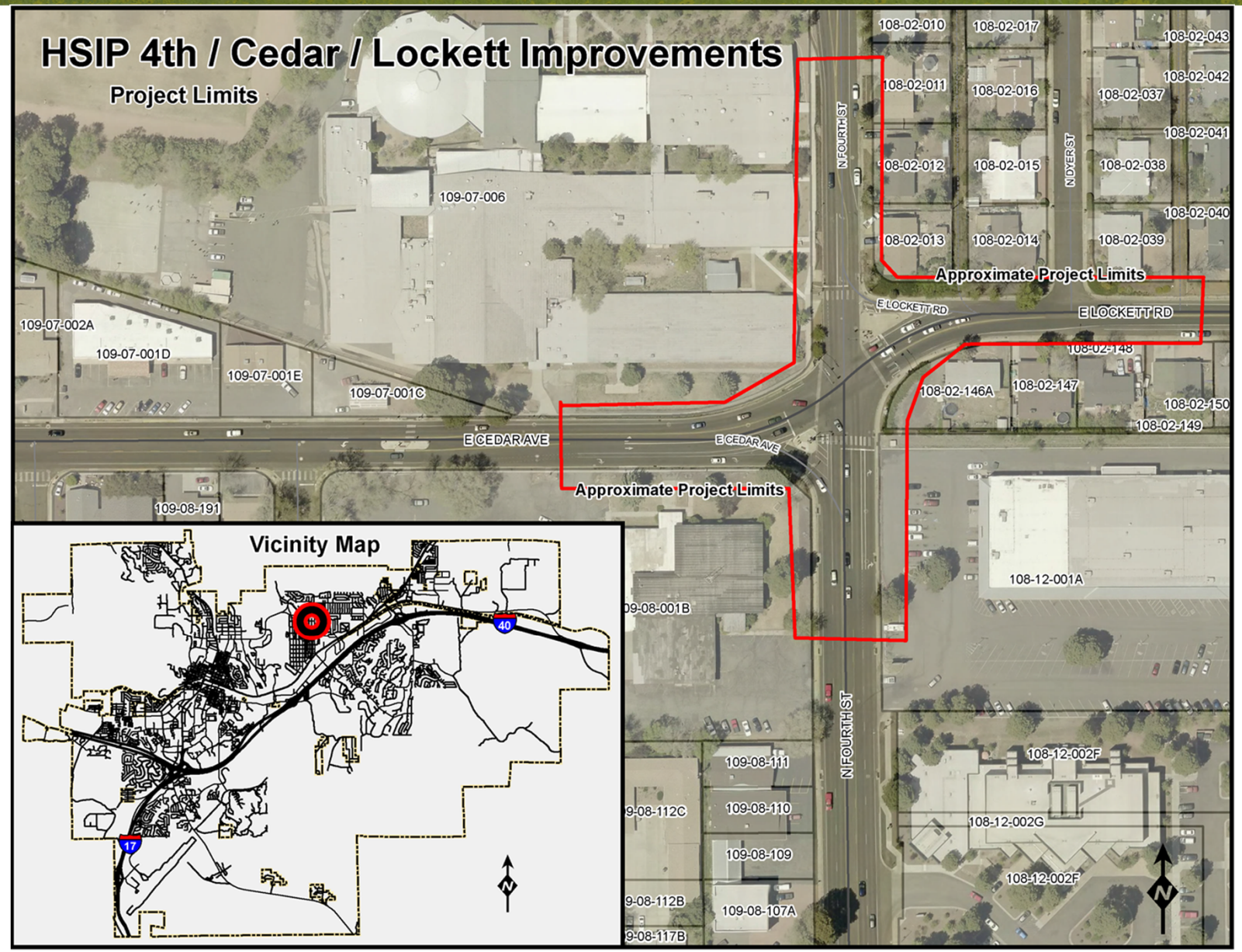
Consideration and Adoption of Resolution No. 2022-15:

A resolution of the Flagstaff City Council authorizing Amendment No. One to an existing Intergovernmental Agreement with the Arizona Department of Transportation for the design and construction of a roundabout at the signalized intersection of Fourth Street and Cedar Avenue/Lockett Road.

Staff Recommended Action:

1) Read Resolution No. 2022-15 by title only
2) City Clerk reads Resolution No. 2022-15 by title only (if approved above)
3) Adopt Resolution No. 2022-15

Project Location



NORTH

Fourth/Cedar/Lockett Roundabout

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

N Fourth St. @
E Cedar Ave. & E Lockett Rd.
Flagstaff, AZ

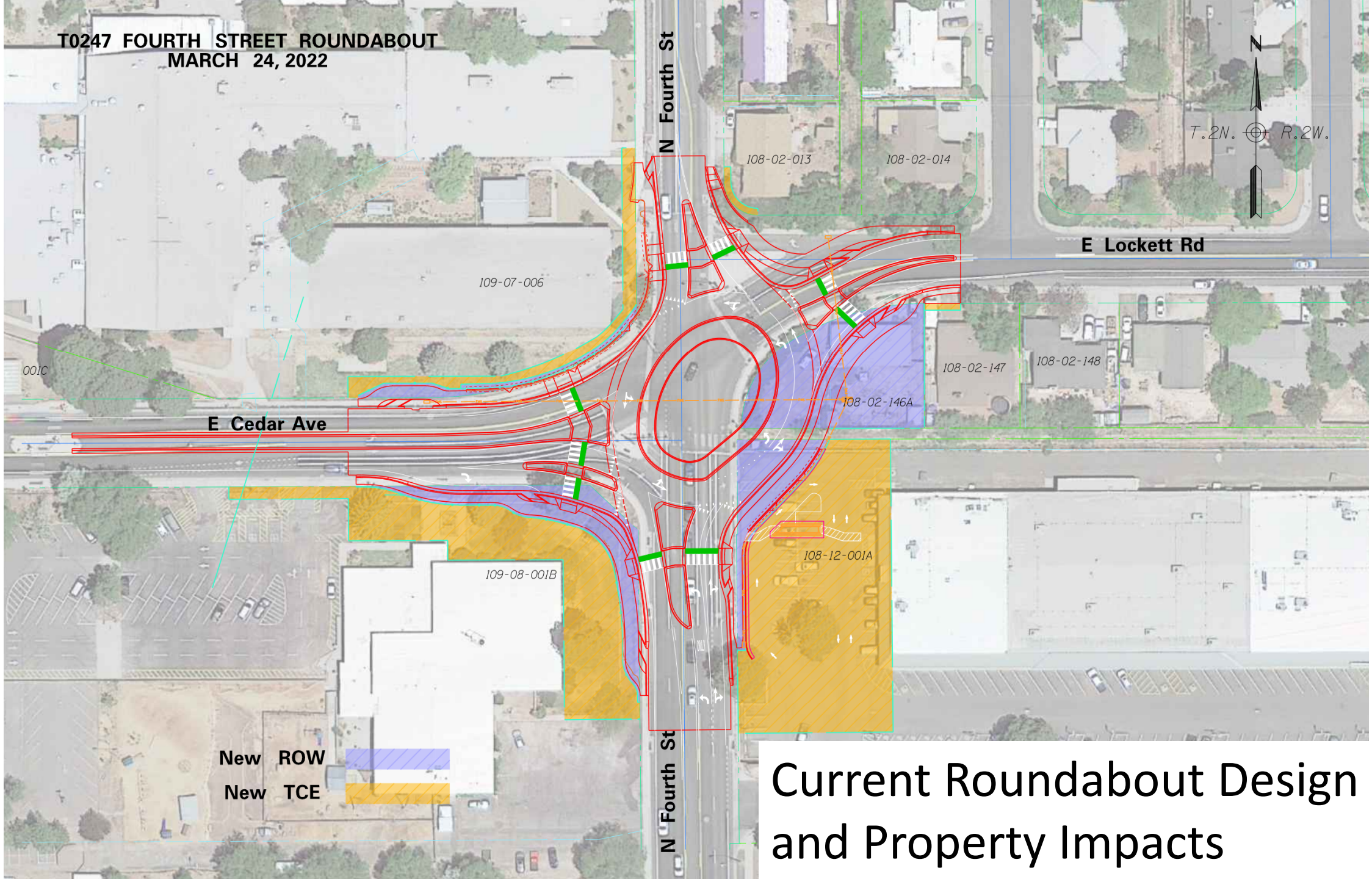
12.17.20

N

Scale= 1:50

MTJ CONCEPT DESIGN
ALT B4: COLOR WITH AERIAL

MTJ ROUNDABOUT engineering
313 Price Place, Suite #11
Madison, WI 53705
608.238.5000
info@mtjengineering.com
www.mtjengineering.com



Current Roundabout Design and Property Impacts

Fourth/Cedar/Lockett Roundabout

IGA Amendment Overview

- Allows for defined City role/participation in construction inspections
- Updates estimated costs for design, Right-of-Way (ROW) and Temporary Construction Easements (TCE) acquisition, and project construction

Fourth/Cedar/Lockett Roundabout

Financial Impacts

- Design
  - Due Now: $73,000 paid to ADOT for additional design and project administration costs
- Right-of-Way (ROW) Acquisitions-Performed by City of Flagstaff
  - Estimated costs have increased to $623,211 due to acquisition of residential property
  - City share is $530,813 with $92,398 in Highway Safety Improvement Program (HSIP) reimbursement funding
- Construction: Current Construction Estimate-$3,000,194
  - HSIP Funding: $1,385,969
  - City Share: $1,614,225-Due prior to bid advertisement

Fourth/Cedar/Lockett Roundabout

Next Steps

- Right-Of-Way/Temporary Construction Easement Acquisition
- Public Information Meeting
  - East Flagstaff Library
  - Date TBD
- Utility Relocations
- Finalize Design and Cost Estimate
- Prior to Bid/Project Advertisement City will pay share of construction costs.
- Construction in 2023

Fourth/Cedar/Lockett Roundabout

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Questions

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Alaxandra Pucciarelli, Current Planning Manager
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE:

Consideration and Approval of Modifications to the Property Development Standards: Request by Foundation for Senior Living to approve modifications to property development standards for an affordable housing development located at 320 N Humphreys Street.

STAFF RECOMMENDED ACTION:

Staff recommends the City Council approve the modifications requested as presented.

Executive Summary:

Section 10-30.20.040.B.4 of the City of Flagstaff Zoning Code allows for a Category 1 affordable housing development that provides 100% of the dwelling units to people with a household income equal to 80% or less of the area median income to have modifications to the property development standards greater than 15% approved by the City Council. The “property development standards” means building form, building placement, building types, encroachments and frontage types, fences and screening, landscape standards, lot requirements, open space, parking standards and required parking, private frontage types, and any other amount, area, dimension, quantity, size, or design requirement of the Zoning Code as determined by the Zoning Administrator. Site and floor plan, streetscape improvements, landscaping and architectural elevations of the project are attached to this report in the Notification tab.

Financial Impact:

None

Policy Impact:

None

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

Priority Based Budget Key Community Priorities and Objectives

Safe and Healthy Community: Support social services, community partners & housing opportunities
Robust Resilient Economy: Support & strengthen a more robust, diverse, & sustainable economy in ways that reflect community values & provides for affordable housing opportunities
Livable Community: Actively support attainable & affordable housing through City projects & opportunities with developers

Carbon Neutrality Plan

DD-1: Encourage vibrancy, appropriate density, and attainability in existing neighborhoods, so that more residents live within walking distance of their daily needs

Regional Plan

A complete analysis of the Regional Plan goals and policies can be found in the attached project application.

Previous Council Decision on This:

There has been no previous Council decision on this item. A discussion was had at the November 16, 2021 City Council Meeting in preparation for this request.

Options and Alternatives:

1. The City Council may approve the modifications to the property development standards as presented.
2. The City Council may approve the modifications to the property development standards with conditions.
3. The City Council may approve some of the modifications to the property development standards as presented or with conditions and may deny other modifications.
4. The City Council may deny the modifications to the property development standards.

Background/History:

The Foundation for Senior Living is proposing a 146 unit affordable multi-family residential project located at 320 N Humphreys Street, the site of the former Catholic Elementary School and Babbitt House. All of the units will serve residents with an area median income of 80% or less. The project is utilizing the T5 Main Street Open (T5-O) transect zone and the Commercial Block building type.

The project will be developed in two phases. The first phase is San Francisco Square and will provide 70 units (60 one-bedrooms and 10 two-bedrooms) to seniors. The development will provide 59 parking spaces for residents. The second phase is Aspen Lofts and will provide 76 units (37 one-bedrooms, 20 two-bedrooms, and 19 three-bedrooms. Phase two will include an internal parking garage with 55 residential spaces and 97 public spaces.

The Site Plan Application was conditionally approved on October 25, 2021. The proposed development requires City Council approval for the requested modifications to the development standards of the Zoning Code.

Key Considerations:

The applicant is requesting the following modifications:

1. 10-40.40.090.E: Request for a maximum 9 ft distance between the exterior sidewalk and the ground floor finish level.
2. 10-40.40.090.E: Request for a maximum 79 ft distance between building entries for Phase I and 123 ft for Phase II.
3. 10-40.40.090.E: Request for a build-to-line to 6 ft.
4. 10-50-110.180.B: Request for a maximum lot width and depth for new lots 290 ft in width (east-west) and 205 ft in depth (north-south).
5. 10-50.120.50.C: Request to allow some porches that are open only to the front.
6. 10-50.120.080.C: Request to allow more than one forecourt on a block frontage.
7. 10.40.40.090.E: Request to allow for an 8 ft ground floor ceiling height.
8. 10.40.40.090.E: Request to allow ground floor units that are a minimum depth of 15 ft.
9. 10-50.110.180.E: Request to allow for porches within a Commercial Block building type.
10. 10-50.120.080.B: Request to allow for a forecourt that is 10.5 ft in width.
11. 10-40.40.090.D: Request to allow for rail fencing to meet the build-to-line.

12. 10-40.40.090.E: Request to allow for buildings wider than 100 ft to not be designed as a series of buildings no wider than 75 ft.
13. 10-50.80.050.B.1.c: Request to allow for bicycle parking within 85 ft from a primary building entrance.
14. 10-40.40-090.G: Request to allow for a 14 ft ground floor parking setback.
15. 10-50.120.070.B: Request to allow for lightwells 4 ft in width.
16. 10-40.40.090.G: Request to allow for 114 residential parking spaces.

To approve a request to modify the property development standards, the City Council shall find that the following criteria have been met:
1) The modifications are consistent with and conform to the goals of the General Plan and any applicable specific plans;
2) The modifications will not be detrimental to the public interest, health, safety, convenience, or welfare of the City and will add to the public good as described in the General Plan;
3) The requested modifications will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located;
4) The proposed development is consistent with the character of the area; and
5) The type, quality, and amenities of the development are consistent with those found in similar developments that are available to the public at market rate.

To approve a request to modify the motor vehicle parking requirements, the City Council shall also find that adequate transit service is available to the development site. Adequate transit service from a development site to a permanent transit stop is less than or equal to 1,320 feet measured following a continuously improved sidewalk and/or public paved trail.

Please refer to the attached Modifications Narrative which contains the applicant's analysis of the requests and the findings.

Community Involvement:

Notification of this request was made by first-class mail to all property owners within 300 feet of the subject property, and to all homeowners' associations (HOAs) that govern land within 1,000 feet of the subject property, as well as all persons or groups whose names are on the registry of persons and groups described in Section 10-20.30.080.C who are interested in receiving such notice, of the purpose of the request, and the time, date, and place of the City Council meeting. In addition, notification by first-class mail was made to all affordable housing advocacy agencies on file with the City of Flagstaff's Housing Section. The applicant also installed a sign on the development site.

Attachments:
Modifications Narrative
Exhibits
Site Plan Approval and Conditions
Notification

Foundation for Senior Living

San Francisco Square and Aspen Lofts

Site Plan Review

Submitted: February 17, 2022

Introduction. Foundation for Senior Living ("FSL") is the planned developer and operator of a new 146-unit affordable multi-family residential development ("Project"), located on the approximate 2.81 gross acres (2.06 net acres) bounded by Dale Avenue to the North, Beaver Street to the East, Cherry Avenue to the South, and Humphreys Street to the West ("Property") (Coconino County Assessor Parcel No. 101-13-008A). The overall development will be comprised of two development projects—San Francisco Square and Aspen Lofts. All units will be permanently affordable and offered for rent to households earning eighty percent (80%) or less of the Area Median Income ("AMI"). The Property is uniquely situated as the only privately held parcel within all of downtown comprising an entire City block, with frontage along all four adjoining streets. FSL is electing to develop the Property, in accordance with the Site Plan approved in PZ-19-00031-02, under the T5 Main Street Open (T5-O) zoning district. Existing improvements on the Property include the former San Francisco de Asís Catholic School and the Babbitt House.

Incorporated in 1974, FSL was initially focused solely on the unmet needs of the elderly and persons with disabilities. Over time, FSL's mission has expanded to provide home and community-based services and develop energy-efficient, affordable housing that promotes health, independence, and dignity for its residents. FSL currently owns and operates 25 affordable developments totaling more than 969 units throughout the state, including Flagstaff Senior Meadows within the City of Flagstaff ("City"). With Flagstaff Senior Meadows' *current wait list at 540 individuals*, FSL sees the redevelopment of the Property as a significant opportunity to provide affordable housing, improve the quality of life for City residents, and contribute to the growth and development of the City's economy.

Context. The Property is bounded to the west by Humphreys Street, a north-south thoroughfare controlled by the Arizona Department of Transportation, and to the east by Beaver Street, a southbound-only thoroughfare. The Property is an infill parcel surrounded by existing development on all sides. To the north across Dale Avenue are primarily professional commercial/office uses; to the east across Beaver Street are a 3-story multi-family residential building and the Nativity of the Blessed Virgin Mary Chapel, along with a second multi-family residential building; to the south across Cherry Avenue is the new, three-story City Courthouse and an office, and to the west across Humphreys Street are primarily commercial uses. The Property slopes fairly significantly downhill from north-to-south.

Development Proposal. This Project proposes to facilitate the redevelopment of the Property with two new development projects—San Francisco Square and Aspen Lofts, separated by a new east-west pedestrian paseo for public and resident use, also serving as civic space.

San Francisco Square. San Francisco Square will be an affordable, age-restricted, independent senior living community in a five-story building located on the north approximate 1.20 gross acres (0.83 net acres) of the Property. The podium-style building, as defined in 2018 IBC, 510.2, is planned to include 70 units within an additional four stories overtop ground-floor and partial below-grade resident parking. Primary vehicular access to resident parking will be provided via a new curb cut at the approximate midpoint of the Beaver Street frontage. Parking within San Francisco Square is intended to serve both San Francisco Square and Aspen Lofts development projects.

The unit mix is planned to primarily consist of one-bedroom units, with some two-bedroom units. The lobby, as well as a resident garden, barbeque, and picnic area, are located adjacent to Beaver Street. Resident community rooms are planned within floors 2 through 5. All of the second-floor units fronting Dale Avenue are planned as walk-up units oriented around common forecourts, thus enhancing the building's interaction with the adjoining streetscape, and improving the

pedestrian experience. The remainder of the units will be accessed via the lobby and then from common hallway corridors on each floor.

As a result of the Property's slope, retaining walls are planned along the Dale Avenue, Beaver Street, and Humphreys Street frontages, which also serve to screen parking from view. Those portions of the retaining walls visible from view will be decorative or include a similar finish.

Aspen Lofts. Aspen Lofts will be an affordable, family-oriented, multi-family residential community in a five-story building on the south approximate 1.61 gross acres (1.23 net acres) of the Property. The podium-style building, as defined in 2018 IBC, 510.2, is planned to include 76 units with an additional four stories overtop ground-floor and partial below-grade parking. A second point of vehicular access will be provided via a new curb cut along Cherry Avenue.

The unit mix is planned to include a mix of one-, two-, and three-bedroom units. At-grade, walk-up, stoop-style units are located along the Cherry Avenue and Humphreys Street frontages, screening the ground-floor parking from view. Below-grade, lightwell-style units are located along the Beaver Street frontage. The lobby is located at the corner of Beaver Street and Cherry Avenue, so that it is visible and accessible to residents. Two-story units are provided along Cherry Avenue and are also planned to be walk-up, with the remainder of the upper floors being accessed via the lobby and then from common hallway corridors on each floor. Aspen Lofts is designed to maximize the number of units that open up to and interact with the adjoining streetscapes, contributing to the thoroughfare experience for residents and the public. The third floor is also planned to include an expansive resident amenity deck.

Paseo. The Project is proposing a new pedestrian paseo providing east-west, public and resident pedestrian connectivity between Beaver and Humphreys Streets. Importantly, the planned landscaped paseo re-establishes mid-block pedestrian connectivity with the adjoining blocks to the east and west, as originally subdivided in the Flagstaff Townsite Plat. Re-establishing this "leg" serves as a significant contribution to the City and public, which will provide direct and uninterrupted connectivity stretching from WC Riles Street more than ½ mile west to Thorpe Park. The paseo will include landscaping, hardscape, pedestrian-scale lighting, bicycle parking, and a play, picnic, and barbeque area.

Access. Vehicular access to the Project will be provided via two new driveways, one along Beaver Street and one along Cherry Avenue. The driveway along Beaver Street is intended for resident use, with the driveway along Cherry Avenue for City Courthouse parking, with secondary access for residents. Importantly, this Project results in the closure of two existing driveways—one along Cherry Avenue and one along Humphreys Street.

Frontages. The Property is uniquely situated as the only privately held parcel within all of downtown comprising an entire City block, with frontage along all four adjoining streets. As previously discussed and supported by City Staff, the Project proposes the following frontages:

Humphreys Street. Humphreys Street bounds the Property to the west and is the only street adjacent to the Property that is under the jurisdiction of the Arizona Department of Transportation ("ADOT"). Humphreys Street includes a northbound through lane, a southbound through lane, and a center turn lane. FSL is proposing to expand the existing 5-foot attached sidewalk by 6 feet, for a sidewalk 11 feet in total width, along with providing tree and building foundation landscaping.

Dale Avenue. Dale Avenue bounds the Property to the north and is a two-lane, east-west street, with on-street parking along both sides. Improvements to the Dale Avenue frontage will consist of a sidewalk ranging in width from 5 to 9 feet in width, separated by a landscaped parkway with trees and ground cover. On-street parking will continue to be provided.

Beaver Street. Beaver Street bounds the Property to the east and is a two-lane southbound only street, with on-street parking along the east side and a bicycle lane along the west side. The City improved Beaver Street (from Columbus Avenue south to Birch Avenue), which included new curbing, a 6-foot sidewalk, and a bicycle lane along the Property's frontage. FSL is proposing to expand the existing sidewalk, along with providing trees. No on-street parking is proposed, as it would disrupt the pedestrian, bicyclist, and vehicular mobility goals and objectives of the thoroughfare provisions.

Cherry Avenue. Cherry Avenue bounds the Property to the south and is a two-lane, east-west street, with on-street parking along both sides. Improvements to this frontage will consist of a new 11-foot sidewalk, along with trees. On-street parking will continue to be provided.

Phasing. It is anticipated that the Project will be developed in two phases. The first phase is anticipated to include the construction of San Francisco Square, with the necessary on- and off-site work (landscaping, parking, infrastructure, etc.). The second phase is anticipated to include the construction of Aspen Lofts together with the necessary on- and off-site work. Specific plans and construction documents for each phase will be processed for review and approval by the City to ensure proper and orderly development.

Modification to Property Development Standards for Permanently Affordable Housing. In March 2021, the City Council approved Ordinance No. 2021-05 allowing the City Council to approve modifications to property development standards for permanently affordable housing development that provides 100% of the dwelling units to persons or families with household income equal to 80% or less of the area median income for the City. The Planning & Zoning Commission and City Council reviewed and recommended approval of this modification. This amendment is now codified at Section 10-30.20.040.B.4.c of the Zoning Code.

In accordance with this new affordable housing incentive initiative, this Project requests a set of modifications to the following development standards, which have been grouped according to subject matter (the "Application"). Consistent with the Zoning Ordinance, each of these proposed modifications:

(a) is consistent with and conforms to the goals of the Regional Plan and any applicable specific plans;

(b) will not be detrimental to the public interest, health, safety, convenience, or welfare of the City and will add to the public good as described in the Regional Plan;

(c) will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located;

(d) is consistent with the character of the area; and

(e) in addition, the type, quality, and amenities of the development are consistent with those found in similar developments that are available to the public at market rate.

Topography and Size

As previously described, the unique nature of this Property is a primary driving force for several of these requests. This is the only privately held lot downtown that covers an entire City block. In addition, because this Project covers an entire block, the topography is much more dramatic than it would be on a smaller lot. This means that the Property has unusual building challenges, but it also means that the Project will benefit from a natural visual interest that might not be possible on a smaller lot, as different facades present themselves to the passerby.

Topographically triggered modifications include the following:

- Section 10-40.40.090.E sets a maximum distance between the exterior sidewalk and the ground floor finish level of 6 inches, which cannot otherwise be achieved across the length of this Property without substantial variations in finished floor level, adding cost and creating unnecessary issues for an affordable housing community. Thus, FSL is asking to increase this maximum to nine feet between

external sidewalks and ground-floor finish level. Due to the topography, this difference will only exist at a relatively limited portion of the Project.

- Section 10-40.40.090.E sets a maximum distance between entries at 50 feet. This site is at least 300 feet long along each of its frontages. Because of the topography and the Project demographic, including seniors, FSL has designed a series of courtyards and porches that span the frontages, still providing streetscape energy, but doing so in a manner that is safe and responsive to the Project and resident's needs. As noted above, FSL's redevelopment of the Property results in the closure of the existing driveway along Humprheys Street, and relocates it to Beaver Street, thus enhancing the streetscape, increasing safety, and improving vehicular circulation around the Property. In addition, to provide additional pedestrian access and visual interest, FSL is proposing to locate the paseo through the middle of the Property, further breaking up building massing and providing more energy to the streetscape, and offsetting the increased entry spacing. For Phase 1, FSL is seeking a 78-foot spacing between entries, and for Phase 2, FSL is seeking a 123-foot spacing between entries.

Modifications triggered by the size of the Property include the following:

- Section 10-40.40.090.E calls for a 2 foot build-to-line, with building very close to the sidewalks. San Francisco Square and Aspen Lofts provide an approximately 6 foot build-to-line. In order to accommodate wider sidewalks, landscaping, parkways, and certain frontage types (e.g., porches)—all of which significantly improve the walkability of the community—it is practically impossible to satisfy the 2 foot build-to-line requirement. Accordingly, FSL is proposing to modify the requirement.

- Section 10-50-110.180.B establishes a maximum lot width and depth for new lots of 150 feet. To reiterate, the Property is approximately 300-feet long along each of its frontages. When FSL divides the site into two lots, basically along the proposed paseo, that will actually bring the Project significantly *closer* to compliance, but still, all of the east-west dimensions will be around 300 feet long, and the north-south distance of Phase 2 will continue to exceed 150 feet. Therefore, FSL is asking that the proposed lot widths for all east-west dimensions remain at 290 feet, and that Phase 2's lot depth be permitted at 205 feet.

- Section 10-50.120.50.C calls for all (engaged) porches to be open on at least two sides. While some of its porches are open on two sides, FSL also has some porches that open only on a single side. Because of the size of the Project, FSL has included some porches that are open only to the front, to create additional visual interest and diversity along its streetscape.

- Section 10-50.120.080.C minimizes forecourts to one per block frontage. FSL is proposing two sizeable forecourts along Dale Avenue and one along Humphreys Street. The two forecourts along Dale Avenue "bookend" the building, which

maximizes it street frontage presences for pedestrians and passerby traffic going east and west bound on Dale Avenue. The forecourts are also consistent with the residential nature of the Project, which is addressed in additional detail in the next section.

Residential Project

The residential nature of this Project also warrants modifying some of the development standards. As stated in the Zoning Ordinance, the T5 Main Street zoning district provisions exist in part to provide a transition from downtown's commercial/retail spaces and the surrounding neighborhoods. This project, with its residential focus, does that.

Residentially triggered modifications include the following:

- Section 10.40.40.090.E calls for ground floor ceilings of a minimum of 14 feet. While that may well be appropriate for public, commercial spaces designed to welcome the public, this is a residential Project that will provide much-needed affordable housing opportunities in the downtown area. Thus, FSL is requesting a 8 foot minimum ground floor ceiling height. This will still create ample opportunity for exterior design variation.

- Section 10.40.40.090.E also calls for a minimum unit depth of 30 feet.

  FSL has rotated certain ground floor units within San Francisco Square, which resulted in a depth of approximately 21 – 22 feet; however, FSL has expanded the width of these units to exceed 30 feet, thus providing San Francisco Square's residents with units that have square-footages nearly identical to those units that are 30-feet in depth.

  In order to accommodate parking for the City Courthouse and public, FSL is proposing that all ground floor units be 2 stories (rather than providing units with a depth of 30 feet) within Aspen Lofts. Ground floor units along Humphreys and Beaver Streets have a depth of approximately 29 feet (a mere 1 foot short), with the units along Cherry Avenue having a depth of approximately 15 feet. The strategic and efficient design of these units will provide Aspen Lofts' residents the necessary living space, bedrooms, etc., while allowing for the City Courthouse and public parking.

  FSL fulfills the intent of Section 10.40.40.090.E.

- Section 10-50.110.180.E prohibits engaged porches in commercial blocks. This Project is residential, and engaged porches are appropriate as this site provides a transition between downtown and residential neighborhoods.

Architectural Modifications

A handful of the requested modifications are not related to the specific Property impacts detailed above, but instead are proposed to improve the architecture of the Project.

- Section 10-50.120.080.B calls for a forecourt to be a minimum 12 feet by 12 feet. FSL is seeking a small modification to the width of the forecourt size along Humphreys Street, reducing this forecourt to 10.5 feet. The forecourts at the intersections of Humphreys Street and Dale Avenue and Beaver Street and Dale Avenue exceed the minimum width and depth by double. In order to provide the paseo and maximize civic space, both of which benefit the public and residents, it is necessary to reduce the forecourt width by a mere 1.5 feet. Additionally, affordable housing and their funding have much different building performa, which can affect floor plates and sizing of spaces, such as forecourts.

- Section 10-40.40.090.D calls for a build-to-line to be defined by a building face or by "a stucco or masonry wall." Due to the length of its facades, FSL has used rail fencing in several locations to meet the build-to-line. This creates a diversity of design along unusually long frontages. Notably, Section 10-50.120.080.C expressly allows fencing for forecourts. Practically, FSL also expects it to help with snow removal.

- Section 10-40.40.090.E calls for building wider than 100 feet must be designed as a series of building no wider than 75 feet. This Application integrates the building into the existing context by breaking up the volume of the overall building, proportions, and height into smaller sub-volumes and by creating the appearance of a grouping of small structures through the use of textures, materials, details, colors, and other architectural elements.

  Attention has been given to each of the four elevations and their associated massing and architecture to break up the facade (vertical, horizontal, and depth/setback) into a series of individual and diverse facades, each having distinct architectural expressions. The Application effectively breaks up the massing of the upper floors, which establishes a human scale. The Application provides articulated structural elements, horizontal expression lines, and changes in materials that are compatible with the scale of the area. Specifically, the upper floors are divided into smaller, subordinate components by "jogging" the horizontal building plane, resulting in identifiable "fingers" that extend outward. Opposite the "fingers" are the "jogs" which are set back from the street frontages proportionate to the overall height of the building, resulting in appropriate building-massing.

- Section 10-50.80.050.B.1.c calls for bicycle parking to be located within 50-feet of the primary pedestrian entrance. FSL has done so for Phase 1, but the Phase 2 bicycle parking is located 85 feet from the primary pedestrian entrance to accommodate the provision of light wells into the underground spaces.

Fortunately, this spacing does ensure a better distribution of the bicycle parking, which is a separate goal of this provision of the Zoning Code.

City Courthouse Parking

FSL has also worked with the City to accommodate City Courthouse parking within its Property, meaning that the Property is carrying an off-site burden. FSL is happy to cooperate with the City to achieve this community benefit, but it does impact FSL's design approach to the Project.

City parking-triggered modifications include the following:

- Section 10-40.40-090.G establishes a 50 foot minimum setback for ground floor parking. Here FSL is providing parking to serve a building located across Cherry Avenue. For public convenience alone, it would be good to bring that parking closer to the Courthouse. Of course, FSL must also provide for its own parking (though reduced) as well. Thus, FSL is seeking to reduce the minimum parking setback to 14 feet.

- Section 10-50.120.070.B requires lightwells to be 5 feet wide. Because of the constraint imposed by the City-requested proposed parking garage, FSL is seeking to reduce the width to 4 feet.

- FSL's experience has taught it that affordable housing communities, especially those with age restrictions, do not require the abundant, auto-centric parking accommodations that zoning /codes ordinances typically demand. As a result, FSL is happy to provide additional parking to support the needs of the adjacent City Courthouse. Section 10-40.40.090.G requires that 1 parking space be provided per 1,500 square-feet. Alternatively, Section 10-50.80.060, through use of a parking adjustment, would require FSL to provide 146 spaces for the entire Project, 70 for Phase 1, and 76 for Phase 2 (1 parking space per unit). Instead, FSL is providing 114 parking spaces for its entire Project, 59 for Phase 1, and 55 for Phase 2, and then setting aside 97 additional spaces for the City Courthouse. This is a clear benefit to the Courthouse, and thus, to all of downtown, by providing additional parking that is accessible and convenient to community.

(It should be noted that FSL is providing accessible parking in accordance with the 59 / 55 / 97 blend, per Table 10-50.80.080.B.)

Under the Affordable Housing Incentive provisions of Section 10-30.20.040.B.4.c.2, the City Council does need to verify the presence of nearby transit in order to approve the parking reduction. Nonetheless, there are stops in both directions of the site on Route 2 (in blue) on the Mountain Line within 1,320 feet of the site (the Beaver Street stop is one block south, past the City Courthouse). See below Transit Map.

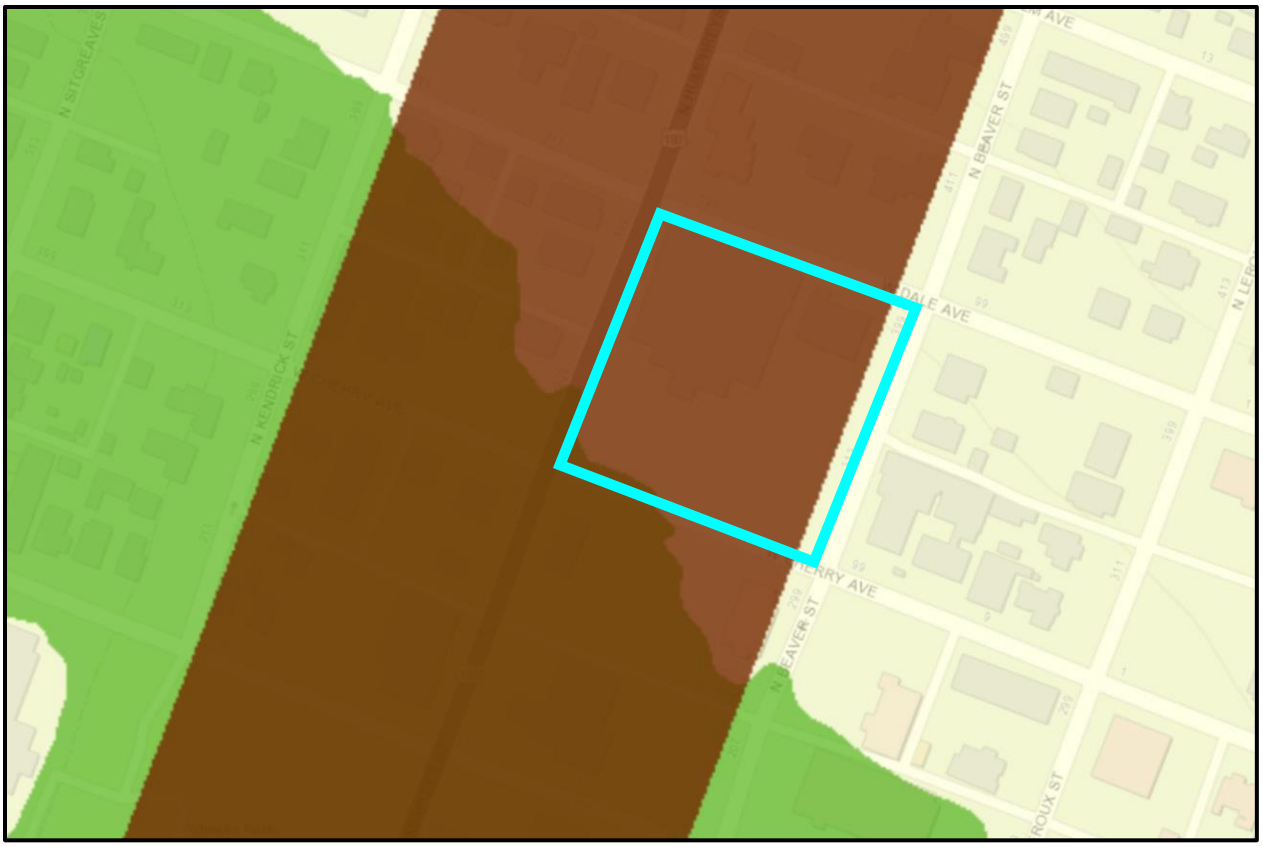
Consistent with the Zoning Ordinance, each of these proposed modifications:

(a) is consistent with and conforms to the goals of the Regional Plan and any applicable specific plans;

Response:

The *Growth Areas & Land Use* chapter of the Regional Plan guides the community vision for how land use in Flagstaff should occur. The *Growth Areas & Land Use* chapter is comprised of three concepts: (1) Growth: Future growth will be concentrated in reinvestment areas and will include a balance of infill and redevelopment in existing neighborhoods; (2) Area Types: Urban, Suburban, and Rural; and (3) Place Types: Activity Centers, Neighborhoods, and Corridors provide the framework around how Flagstaff will be built.

Growth: The Regional Plan recognizes that reinvestment in an area through revitalization and redevelopment plays a vital role in improving the quality of life for those living in Flagstaff. And, that reinvestment promotes the resurgence of activity centers and walkable neighborhoods. The Property is located along a "Great Street" corridor, which the Regional Plan identifies as having high reinvestment potential, as these are located in areas of greater return on investment. This Application promotes the transformation of an underutilized, infill property within an existing Urban Activity Center.



The following *Reinvestment* goals and policies support this Application:

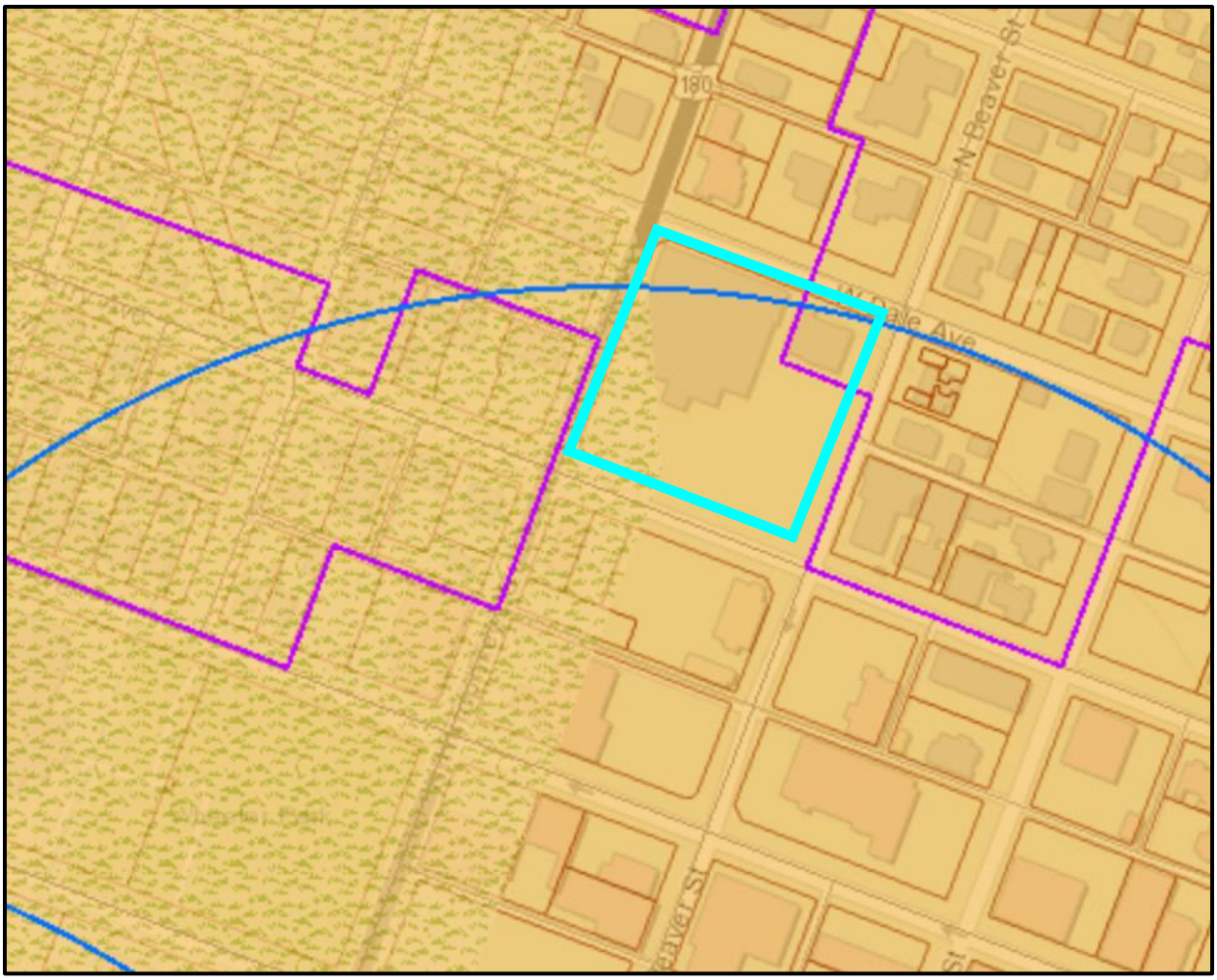
Goal LU.1. Invest in existing neighborhoods and activity centers for the purpose of developing complete, and connected places.

Policy LU.1.3. Promote reinvestment at the neighborhood scale to include infill of vacant parcels, redevelopment of underutilized properties, aesthetic improvements to public spaces, remodeling of existing buildings and streetscapes, maintaining selected appropriate open space, and programs for the benefit and improvement of the local residents.

Policy LU.1.6. Establish greater flexibility in development standards and processes to assist developers in overcoming challenges posed by redevelopment and infill sites.

Policy LU.1.7. Consider creative policy and planning tools (such as transfer of develop rights or transfer of development obligations) as a means to incentivize redevelopment and infill.

Area Type: The Regional Plan designates the Property as an Existing Urban area type. The City's urban areas are intended to have a higher density of people and residences; buildings are generally taller and close to the streets; streets and sidewalks are in a grid pattern of relatively small blocks; and the area is walkable and supported by commercial and service uses, and by transportation.



The following *Urban Area* goals and policies support this Application:

LU.9. Focus reinvestment, partnerships, regulations, and incentives on developing or redeveloping urban areas.

Policy LU.9.1. Reinvest in urban areas.

Goal LU.10. Increase the proportion of urban neighborhoods to achieve walkable, compact growth.

Policy LU.10.1. Prioritize connectivity within all urban neighborhoods and activity centers.

Policy LU.10.2. Support on-street parking, shared lots, and parking structures.

Policy LU.10.5. Consider vacant and underutilized parcels within the City's existing urban neighborhoods as excellent locations for contextual redevelopment that adds housing, shopping, employment, entertainment, and recreational options for nearby residents and transit patrons.

Policy LU.10.7. Invest in infrastructure and right-of-way enhancements that favor the pedestrian and transit as an incentive for private investment in urban neighborhoods and activity centers.

Policy LU.10.9. Civic spaces must be well designed, accessible, and central to the urban fabric.

The Property is also located within and subject to the *Urban Area—Downtown.* If downtown is to continue to be considered the heart of the City, it must remain healthy and attractive to locals, visitors, and business owners alike. This downtown revitalization project will anchor and enhance the overall character of the City and contribute toward Flagstaff 's long-term sustainability. The following *Urban Area—Downtown* goals and policies support this Application:

Goal LU.11. Prioritize the continual reinvigoration of downtown Flagstaff, whose strategic location, walkable blocks, and historic buildings will continue to be a vibrant destination for all.

Policy LU.11.4. Encourage various housing types that appeal to a diverse range of ages and income.

Policy LU.11.6. Strive for a wide variety of activities in downtown to create a healthy mix of housing, employment, shopping, cultural, and civic uses.

Place Types: Flagstaff has various activity centers. The Property is located within an Urban Activity Center and historic pedestrian shed. Urban Activity Centers hold the greatest densities of housing, yet they are still appropriately designed. With a focus of investment and development within the urban core as a growth management strategy, Urban Activity Centers are vital in producing the compact urban form necessary for efficient infrastructure, transit, walkability, job creation, and protection of our natural resources. By promoting Urban Activity Centers, especially within the downtown area, the community benefits from an additional, and importantly, affordable housing type; opportunities to increase walking, biking, and transit use; more efficient use of existing public infrastructure; opportunities to foster vibrant, walkable communities; and reduced congestion.

The following *Place Type* goals and policies support this Application:

Goal LU.18. Develop well designed activity centers and corridors with a variety of employment, business, shopping, civic engagement, cultural opportunities, and residential choices.

Policy LU.18.1. Design activity centers and corridors appropriate to and within the context of each area type: urban, suburban, or rural.

Policy LU.18.3. Redevelop underutilized properties, upgrade aging infrastructure, and enhance rights-of-way and public spaces so that existing activity centers and corridors can realize their full potential.

Policy LU.18.4. Encourage developers to provide activity centers and corridors with housing of various types and price points, especially attached and multi-family housing.

Policy LU.18.6. Support increased densities within activity centers and corridors.

Policy LU.18.8. Increase residential densities, live-work units, and home occupations within the activity center's pedestrian shed.

Policy LU.18.13. Promote higher density development in targeted areas where economically viable and desired by the public.

Policy LU.18.18. New development within existing activity centers should enhance the existing street pattern to meet the goals and policies of the Regional Plan related to connectivity and complete streets.

Policy LU.18.20. Major streets in urban activity centers should have urban-form buildings with their primary pedestrian entrances facing the major street. Secondary entrances could be located to meet other access needs for the building use.

* * *

The *Community Character* chapter of the Regional Plan provides guidance as to the design of the community and built environment. As stated above, with the exception of just a small sliver near the northwest corner, the Property is designated as an "Urban Activity Center" (U1) (see map at page 12). In the context of "community character," urban design is the discipline through which planning and architecture can create and renew a sense of local pride and identity. Importantly, the Regional Plan recognizes that urban design is essential for the success of various area, including downtown.

The City Council approved the Downtown Regulating Plan allowing property owners in the greater-downtown area to elect to use transect zoning. The various transect zones regulate the scale and intensity of development by establishing minimums and maximums for development. FSL has elected to develop the Property under the T5-O zoning district, which encourages building forward design, creating an urban "feel" along the streetscape. The City's Community Development Department approved the Site Plan Application, with conditions. The City determined that the urban design, including the design of the building, architecture, landscape architecture, and parking fulfilled the Zoning Code and, further, the purpose and intent of the *Community Character* chapter of the Regional Plan.

The *Neighborhoods, Housing & Urban Conservation* chapter of the Regional Plan recognizes that neighborhoods are the backbone of every community. An important part of the Regional Plan is to address housing options available to current City residents, as well as look to the future to make sure that the right housing options are available as the City's population grows and changes. This Project specifically recognizes the need for housing diversity and stock, that affordable multi-generational housing is a growing sector

and, that fulfilling the needs of both the younger and older generations is critical in ensuring community sustainability and economic development.

The *Neighborhoods, Housing & Urban Conservation* chapter also provides guidance as to managing population growth. The City's growing population will require an increased emphasis on housing choices in the future. With a limited supply of land for development and an increase in housing needs for the elderly, multi-generational families, and downsizing as the Baby Boomer generation moves to retirement years, this Project provides additional opportunities for affordable, workforce housing for City residents.

The following *Neighborhoods, Housing & Urban Conservation* goals and policies support this Application:

Goal NH.3. Make available a variety of housing types at different price points, to provide housing opportunity for all economic sectors.

Policy NH.3.1. Provide a variety of housing types throughout the City and region, including purchase and rental options, to expand the choices available to meet the financial and lifestyle needs of our diverse population.

Policy NH.3.3. Increase the availability of affordable housing for very low-income persons, through innovative and effective funding mechanisms.

Policy NH.3.5. Encourage and incentivize affordable housing.

Goal NH.4. All housing is safe and sanitary.

Policy NH.4.3. Address accessibility issues and other housing barriers to persons with disabilities or special needs.

Policy NH.4.7. Enforce compliance with fair housing laws.

(b) will not be detrimental to the public interest, health, safety, convenience, or welfare of the City and will add to the public good as described in the Regional Plan;

Response:

The improvement of the Property will not be detrimental to the public interest, health, safety, convenience, or welfare of the City and will add to the public good as described in the Regional Plan, so long as it is developed in accordance with City codes and ordinances, including receiving approval of this Application. As stated above, the redevelopment of an underutilized, infill property with 146 new, affordable workforce housing units is supported by the Regional Plan and is beneficial to the community and overall public good.

(c) will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located;

Response:

The improvement of the Property will not endanger, jeopardize, or otherwise constitute a hazard to the Property or improvements in the vicinity of the area. Plans for each phase will be submitted to the City (planning, engineering, building, fire, traffic, etc.) for review against codes and ordinances (Zoning Code, Engineering Design Standards, Building Code, Fire Code, etc.) to ensure proper and orderly development.

(d) is consistent with the character of the area; and

Response:

The Property is an infill parcel surrounded by existing development on all sides. To the north across Dale Avenue are primarily professional commercial/office uses; to the east across Beaver Street are a 3-story multi-family residential building and the Nativity of the Blessed Virgin Mary Chapel, along with a second multi-family residential building; to the south across Cherry Avenue is the new, three-story City Courthouse and an office, and to the west across Humphreys Street are primarily commercial uses. The Property slopes fairly significantly downhill from north-to-south.

Streetscape: This Application recognizes that Flagstaff's streets play an important role in the livability, vitality, and character of the community. This Application contributes to the north downtown area through the redevelopment and improvement of the four streetscapes adjacent to the Property, creating a more pedestrian-friendly environment in which citizens can live, work, and play. The streetscapes are designed to be pedestrian-priority areas, with a strong emphasis on interaction, comfort, and safety. Additionally, the building architecture at ground level is intended to complement the planned nature and character of the streetscape.

It is anticipated that as other properties are improved and/or redeveloped, they too will provide similar streetscape improvements, eventually creating a complete sidewalk network/connection within north downtown.

Site Relationships: This Application reinforces and compliments the existing character and architecture found in north downtown area. Site Relationships include the following: building setback, vehicular access, and pedestrian access.

Building Setbacks: The City Council approved the Downtown Regulating Plan allowing property owners in the greater-downtown area to elect to use transect zoning. FSL has elected to develop the Property under the T5-O zoning district, which encourages building forward design, creating an urban "feel" along the streetscape. The

Vehicular Access: This Application includes constructing a new driveway at the approximate mid-point along Beaver Street, as well as eliminating the existing driveway along Humphreys Street and replacing it along Cherry Avenue. Eliminating the existing Humphreys Street driveway will help to concentrate the vehicular-access movements to / from Beaver Street and Cherry Avenue only, and importantly, minimize automobile-pedestrian conflicts.

Pedestrian Access: The proposed sidewalks improve the walkable urban place-type and transect zoning envisioned by the City. Additionally, the improved pedestrian access supports transportation alternatives, including walking and biking.

The wide sidewalks and landscaping along all four street frontages create a pedestrian-friendly environment and stronger sense of community. Humphreys Street accommodates an even-wider sidewalk with landscaping that increases pedestrian safety, accessibility, and overall function. It is anticipated that as other properties are improved and/or redeveloped, they too will provide similar streetscape improvements that will further the interconnected street-and-sidewalk network within north downtown.

Landscaping: This Application includes sustainable perimeter landscaping that is appropriately and artfully arranged to define the streetscape "thoroughfares," to compliment the development, and to improve the aesthetics of north downtown. The foundation landscaping, where provided, helps to frame the building and visually anchor it to the site. The landscaping within the parkways is appropriately spaced to both soften the built environment by adding human scale and to unify the individual street frontages and residential entries. The landscape palette can be found within the greater-downtown Flagstaff.

Scale: This Application recognizes that the building should be scaled to its context.

Massing, Proportions, Height, and ***Continuity:*** The Application integrates the building into the existing context by breaking up the volume of the overall building, proportions, and height into smaller sub-volumes and by creating the appearance of a grouping of small structures through the use of textures, materials, details, colors, and other architectural elements.

Attention has been given to each of the four elevations and their associated massing and architecture to break up the facade (vertical, horizontal, and depth/setback) into a series of individual and diverse facades, each having distinct architectural expressions. The interplay of the various facade materials, colors, windows, and other elements work independently and collectively to create an undulating rhythm and pattern that establish a human

scale. Building materials were selectively chosen to include brick, fibre cement panels (varying in both colors and orientations/assemblies), concrete, metal, and windows and doors that are similar in proportion and scale to those seen in downtown. All these variying materials help with creating expression lines. The Application utilizes muted colors and earth tones, including rust, brick red, grays, and natural stone—all of which complement the greater downtown-area.

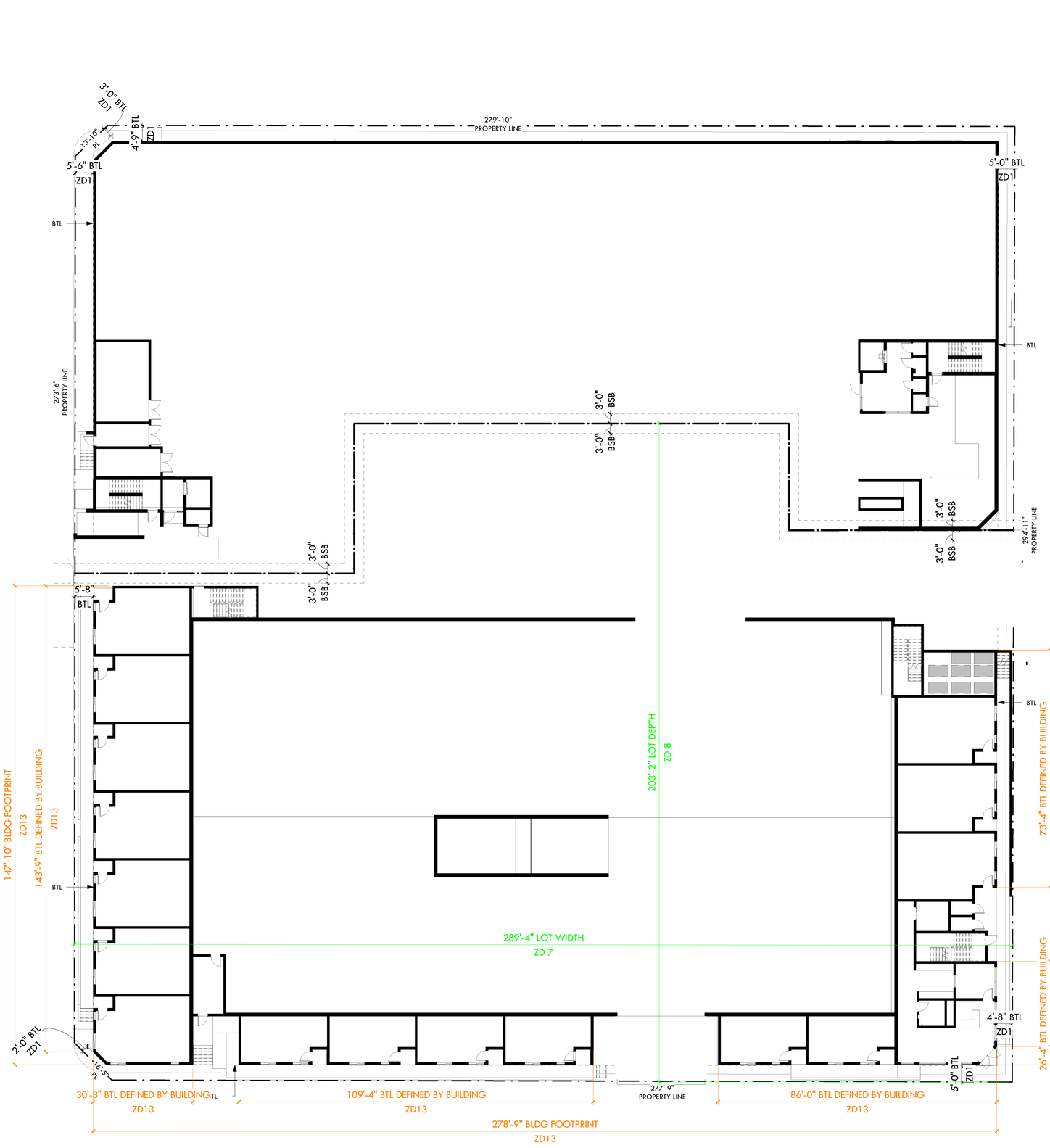
The Application effectively breaks up the massing of the upper floors, which establishes a human scale. The Application provides articulated structural elements, horizontal expression lines, and changes in materials that are compatible with the scale of the area. Specifically, the upper floors are divided into smaller, subordinate components by "jogging" the horizontal building plane, resulting in identifiable "fingers" that extend outward. Opposite the "fingers" are the "jogs" which are set back from the street frontages proportionate to the overall height of the building, resulting in appropriate building-massing.

(e) in addition, the type, quality, and amenities of the development are consistent with those found in similar developments that are available to the public at market rate.

Response:

The type, quality, and amenities of the development are consistent with those found in similar developments that are available to the public at market rate. Most notably, FSL is voluntarily providing a new pedestrian paseo providing east-west, public, and resident pedestrian connectivity between Beaver and Humphreys Streets. Importantly, the planned landscaped paseo re-establishes mid-block pedestrian connectivity with the adjoining blocks to the east and west, as originally subdivided in the Flagstaff Townsite Plat. Re-establishing this "leg" serves as a significant contribution to the City and public, and will provide direct and uninterrupted connectivity stretching from Agassiz Street more than ½ mile west to Thorpe Park. The paseo will be treated with landscaping and hardscape, along with a play area and picnic and barbeque area, and will have the capacity to serve as an art walk, integrating itself into the existing art walk community.

Resident amenities include a number of furnished community rooms, along with a garden and picnic/barbeque area.



1 SITE PLAN - Level 1 - Exhibit 1
1/16" = 1'-0"

PLEASE RECYCLE

IF THIS IS NOT 24"X36", IT IS A REDUCED PRINT - SCALE ACCORDINGLY

ZONING DEVIATIONS LIST

1. 10-40.40.090.D - Build to line (req. 2' distance from ROW: Proposed 6' max)
   a. Reasoning: Allow zoning frontages to exist only within the ROW.

7. 10-50-110.180.B Com. Block—Lot size Width (req. 150' Max.)
   a. Phase 1 Lot Width: proposed 290'-0" max.
   b. Phase 2 Lot Width: proposed 290'-0" max.
   c. Reasoning: Pre-existing lot width and allowable building type.
8. 10-50-110.180.B Com. Block—Lot size Depth (req. 150' Max.)
   a. Phase 1 Lot Depth: proposed 140'-0" max.
   b. Phase 2 Lot Depth: proposed 204'-0" max
   c. Reasoning: Building separation of Phase 1 and Phase 2 and shared entry into the overall site.

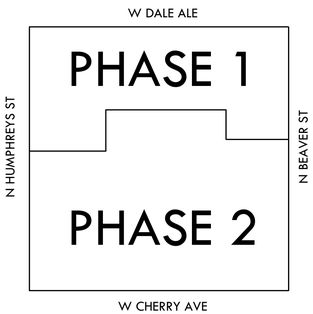
13. 10-40.40.090.D. BTL Defined by a Building: Side Steet (required 40% Min; proposed 25%)
    a. Reasoning: Proforma of building influences building square footage allowed.

ZONING DEVIATIONS ARE COLOR/NUMBER COORDINATED BETWEEN THE RESPECTIVE LIST ABOVE AND RESPECTIVE ANNOTATIONS/NOTES ON THE THE DRAWING.

SEE LATEST ZONING DEVIATIONS LIST FOR COMPLETE LIST.

10-40.40.090 T5-O Main Street (T5) Standards

10-40.40.090 (D)	San Francisco Square Apartments	Aspen lofts
BTL Defined by a Building	BTL Defined by a Building	BTL Defined by a Building
T5-O Front Street: 60% min. (required)	T5-O Front Street: Dale 230'-4" / 279'-4" **82.5% (provided)**	T5-O Front Street: Cherry 221'-5" / 278'-10" **79% (provided)**
Side Street: 40% min. (required)	Side Street: Humphreys 78'-4" / 133'-5" **58.8% (provided)** Side Street: Beaver 33'-1" / 120'-1" **27.5% (provided)**	Side Street: Humphreys 144'-0" / 147'-0" **98% (provided)** Side Street: Beaver 98'-8" / 159'-4" **62.5% (provided)**



ARCHITECTURAL RESOURCE TEAM
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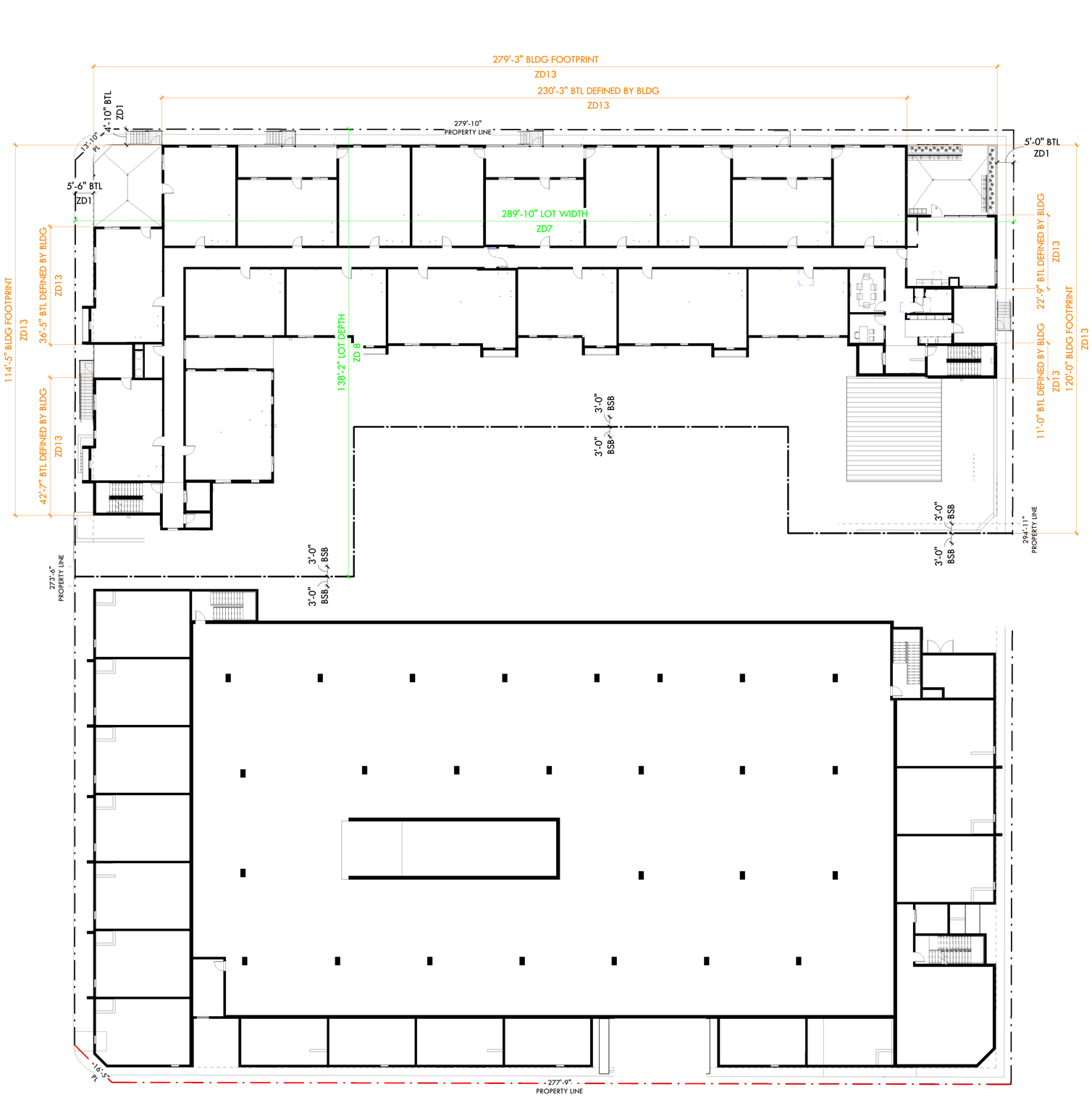
Foundation for Senior Living
San Francisco Square
320 N. Humphreys St.
Flagstaff, AZ 86001

SITE PLANNING
ZONING DEVIATIONS
EXHIBITS

ART PROJECT NO. 20030
DATE 10.28.2021

DRAWING TITLE
SITE PLAN - EXHIBIT 1

DRAWING No.
SP11.01



1 SITE PLAN - Level 2 - Exhibit 1
1/16" = 1'-0"

PLEASE RECYCLE

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   a. Phase 1 Lot Depth: proposed 140'-0" max.
   b. Phase 2 Lot Depth: proposed 204'-0" max
   c. Reasoning: Building separation of Phase 1 and Phase 2 and shared entry into the overall site.

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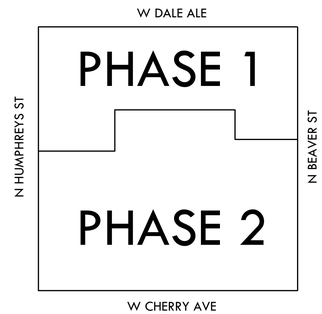

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Foundation for Senior Living
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SITE PLANNING
ZONING DEVIATIONS
EXHIBITS

ART PROJECT NO. 20030
DATE 10.28.2021

DRAWING TITLE
SITE PLAN - EXHIBIT 1

DRAWING No.
SP11.02

City of Flagstaff

Community Development

October 25, 2021

Mr. Steve Hastings
Foundation for Senior Living
1201 E Thomas Road
Phoenix, AZ 85014

RE: FSL San Francisco Square Site Plan Approval (PZ-19-00031-02)

Dear Mr. Hastings:

As of the date of this correspondence, the City of Flagstaff Inter-Division Staff (IDS) has approved Project No. PZ-19-00031-02 for the proposed development of a 88,063 square foot, 70-unit Affordable Housing multi-family development and a 152,786 square foot, 76-unit Affordable Housing multi-family development located at 320 N Humpreys Street. The Coconino County Assessor Parcel Number for the subject property is 101-13-008A. The approval is subject to the attached Conditions of Approval and a successful request of City Council to approve adjustments of property standards as an Affordable Housing Incentive (Flagstaff Zoning Code section 10-30.20.040).

Unless modified to comply with the Conditions of Approval, development shall substantially conform to the Site Plan Review Submittal and the approved drawings as follows:

- Site Plans and Floor Plans prepared by Architectural Resource Team dated August 20,
- Landscape & Irrigation Plan prepared by Chris Winters & Associates dated September 15, 2021,
- Building Elevations prepared by Architectural Resource Team dated August 20 shall be revised as a condition of approval.

This approval shall be valid for a period of one year following the above date, October 25, 2021. If, at the expiration of this period, a building or civil permit has not been issued for the improvements related to the site plan; the issued permit(s) has/have expired for site plan related improvement; or the lot or parcel has not been used for purpose for which the site plan was approved, the site plan approval shall expire. A request for extension may be made at least 30 days prior to the date of expiration.

Any future alterations of the approved development will require approval from the Current Planning staff. This may include a Minor Modification to Development Approval, a Minor Improvement Permit, or a new Concept Plan Review; as well as any additional permits required.

The next step in the development process is Civil Improvement Plan ("Civil") review. Prior to Civil submittal, please contact the Development Engineering Project Manager assigned to the project, Dana Cole, to schedule a meeting to discuss the application submittal requirements, the review process, and timing of reviews. Dana can be reached at (928) 213-2703 or via e-mail at dcole@flagstaffaz.gov.

We look forward to working with you and your development team through the civil review process, building permit review process, and construction/completion of the approved project. Should you have any questions, comments, or concerns, please do not hesitate to contact me.

Sincerely;

Alaxandra Pucciarelli
Current Planning Manager/ Interim Planning Director
Planning & Development Services
City of Flagstaff
(928) 213-2640
apucciarelli@flagstaffaz.gov

Attachment: Conditions of Approval

City of Flagstaff
Community Development
Substantive Review Comments

Project Name:	FSL San Francisco Square	**Date:**	October 25, 2021
Project No.:	PZ-19-00031-02		
Project Address:	320 N Humphreys Street		
Application Type:	Site Plan Review		
Review Type:	Substantive 3rd Submittal		
Project Manager:	Alaxandra Pucciarelli		
E-mail:	apucciarelli@flagstaffaz.gov		
Phone:	(928) 213-2640		

Status of Review: Approved w/ Conditions
In accordance with ARS 9-835(J), the Substantive Review of the application is complete, and the application has been approved subject to the following conditions and comments. This correspondence is being transmitted on Day 44 of the 52-day Substantive Review Timeframe.

CONDITIONS OF RESUBMITTAL/COMMENTS:

Substantive Current Planning: Current Planning, Alaxandra Pucciarelli Approved w/ Conditions 10/21/2021
General Conditions of Approval:

1. Any expansion or alteration of the approved site plan or exterior elevations, unless necessary to comply with these conditions of approval, may require site plan review and approval prior to building permit submittal.
2. Site Plan approval is conditioned on a successful request for 100% Category 1 Affordable Housing incentive allowing the City Council to modify the property development standards as specified in Section 10-30.20.040(B)(4)(c) of the Zoning Code.
3. If any conditions of approval are added by the City Council that significantly alter the current site plan, a new site plan submittal may be required.
4. Applicant shall conduct all public notification requirements in compliance with the Flagstaff Zoning Code (Sec. 10-30.20.040.B.4.c.iii).
5. A final Landscape Plan will be required at Civil Plan submittal.
6. A final Outdoor Lighting Permit Application will be required at Building Permit submittal.
7. Any mechanical equipment or utility cabinets not shown on the approved site plan necessary to complete the project will be required to be screened from both adjacent parcels and the public right-of-way. This includes any roof or ground mounted equipment (including air conditioning units) or cabinets located along the property frontage including the right-of-way.

Conditions of Approval specific to Modification Requests:

1. The applicant must show how the requested modifications meet the required findings prior to scheduling the request to be heard at a City Council meeting. Per Zoning Code 10-30.20.040.B.4.c:
   Additional modifications to the property development standards may be approved by the City Council for a Category 1 affordable housing development that provides 100 percent of the dwelling units to persons or families with a household income equal to 80 percent or less of the area median income as published annually by the U.S. Department of Housing and Urban Development for the City of Flagstaff.

(i) To approve a request to modify the property development standards, the City Council shall find that the following criteria have been met:

(a) The modifications are consistent with and conform to the goals of the General Plan and any applicable specific plans.

(b) The modifications will not be detrimental to the public interest, health, safety, convenience, or welfare of the City and will add to the public good as described in the General Plan.

(c) The requested modifications will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

(d) The proposed development is consistent with the character of the area; and

(e) The type, quality, and amenities of the development are consistent with those found in similar developments that are available to the public at market rate.

2. The applicant must show how the requested parking modifications meet the required findings prior to scheduling the request to be heard at a City Council meeting. Per Zoning Code 10-30.20.040.B.4.c: Additional findings to approve a request to modify the number of motor vehicle parking spaces required (Section 10-50.80.040). To approve a request to modify the motor vehicle parking requirements, the City Council shall also find that:

(a) Adequate transit service is available to the development site. Adequate transit service from a development site to a permanent transit stop is:

(1) Less than or equal to 1,320 feet; or

(2) A distance greater than 1,320 feet when the City Council 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.

3. The façade must be built to the BTL within 30' of each street corner. The 30' distance is not shown at the corner of Humphreys and Dale. If the code requirement is not being met, please add this to the list of modification requests.

Transect Zone Standards (T5-O)

1. The T5-O zone only permits 5-story maximum buildings. The revised elevations have additional windows and roof lines that read as a 6-story building. The allowed maximum height of upper levels floors in the transect zone is 12' maximum. These vaulted spaces appear to exceed this height. **The elevations must be modified prior to scheduling a City Council meeting.**
2. In the T5-O zone, the Commercial Block building type must read as 75' max wide buildings. This must be achieved with varying roof forms, changes in building materials, and varying fenestration patterns. Staff does not believe this has been achieved, although the applicant does. **Staff is requiring the applicant to request a modification to this standard.**

Elevations

1. Approval is conditioned on the provided window details with thicker trim. Although not dimensioned, the trim appears to be at least twice the thickness of the siding, approximately 1.5 - 2 inches thick.

Parking and Landscaping

1. The area used for phase 1 parking and required landscaping is located on the proposed southern parcel. Approval is based on the complete improvement of this area as a part of phase 1. Any necessary cross access/parking easements must be provided with civil plan review.

City of Flagstaff
Community Development
Substantive Review Comments

Substantive Engineering: Engineering, Dana Cole Approved with Conditions 10/07/2021
Conditions of Approval:
Per 13-06-007-0003.I.: On projects where the contractor causes excessive damage to an existing paved street or there are multiple street cuts (maximum of four (4) in five hundred (500) feet) an asphalt overlay shall be required.
General Comments:
Sidewalks will remain open at all times other than when there is actual work in the sidewalk area.
Covered walkways will be required while hazardous site work is occurring proximate to the sidewalk.

Substantive Fire Prevention: Fire Prevention, Christopher Jack Approved with Conditions 10/04/2021
Conditions of Approval:
Riser room is show correctly on sheet SP2.11. Riser room shall have exterior door as shown and include Knox box and proper signage. Make corrections to sheet Sp1.11 and modifications to fire line on sheet C2.0 to correlate to proper location shown on SP2.11

Substantive Public Works: Public Works, Scott Overton Approved 06/07/2021
No Comments

Substantive Stormwater: Stormwater, Douglas Slover Approved with Conditions 06/08/2021
Conditions of Site Plan Approval:
1. Callout for construction note 515 not found on sheet C2.0.
2. Sheet C2.0, Construction note 520, identifies a Catch basin Bubbler. Can this be located in a landscaping area where any ponding in the landscaping area does not enter basin and any discharge overflows to the curb? Is a scupper an option?
3. Describe in drainage report freeze protection of the pump discharge line. Will the discharge line drain back to tank?
4. Identify pump location on sheet C2.0. Is this integral to the detention basin or provide in a separate vault?
General Comments:
1. None
Future Submittal Requirements:
1. Provide drainage report with civil plan submittal.
2. Provide erosion control plan with civil plan submittal.

Substantive Traffic: Traffic, Reid Miller Approved 08/12/2021
No Comments

Substantive Water Services: Water Services, Douglas Slover Approved 10/08/2021
General Comments
1. Note that the excessive cuts in Beaver will trigger a mill and overlay per Engineering requirements.

Substantive Housing: Housing, Jennifer Mikelson Approved 06/03/2021
Site Plan Review Comment
All affordable housing incentives will eventually need to be recorded in an affordability agreement. It is acknowledged that the applicant will need Council approval on the final set of incentives.

Substantive HPC/Comm Design: Heritage Preservation, Mark Reavis Approved with Conditions 10/04/2021
Conditions of Approval:

For full compliance with the requirements of 10-30.30 the applicant agreed to provide a salvage plan for the David Babbitt house prior to demolition to be reviewed and approved by the Heritage Preservation Officer. The preliminary listing and concepts of use developed by the architect is not a salvage plan and does not confirm is items will be salvaged.
Please also provide the required supplemental professional photos on a thumb drive for higher quality digital preservation.

Substantive Building & Safety: Building Safety, Victoria St. Clair Approved with Conditions 08/12/2021
Conditions of Site Plan Approval:
1. A Commercial Building Permit is required for the demolition of the existing buildings. A Commercial Building Permit is required for the construction of the proposed building. The services of an Arizona Registered Design Professional is required. Standard building permit submittal requirements can be obtained from the City of Flagstaff website: https://www.flagstaff.az.gov/494/Building-Safety
General Comments
1. The Building Safety Program reserves the right to make additional comments during actual plan submittal and review of building permit applications.

Substantive Parks: Public Works, Amy Hagin Approved with Conditions 08/13/2021
Conditions of Approval:
1. All street trees, irrigation and associated maintenance are the responsibility of the property owner and not the City of Flagstaff.
2. All snow removal along the sidewalk (all four blocks) are the responsibility of the property owner, and not the City of Flagstaff

Substantive Multimodal: Traffic, Martin Ince Approved 08/16/2021
No Comments

GAMMAGE & BURNHAM, PLC
ATTORNEYS AT LAW
40 NORTH CENTRAL AVENUE
20TH FLOOR
PHOENIX, ARIZONA 85004

TELEPHONE (602) 256-0566
FACSIMILE (602) 256-4475

Lindsay C. Schube
lschube@gblaw.com

WRITER'S DIRECT LINE
(602) 256-4471

March 21, 2022

Dear Property Owner, Neighborhood Association, or Interested Citizen,

We represent Foundation for Senior Living ("FSL"), an Arizona non-profit organization dedicated to providing quality, energy-efficient, affordable housing that promotes health, independence, and dignity for its residents. FSL is proposing to redevelop the approximate 2.81 acres generally located at 320 North Humphreys Street ("Property") with a total of 146 permanently, affordable multi-family residential units. See enclosed Aerial Map. The Property is uniquely situated as the only privately held parcel within all of downtown comprising an entire City block. The Property is zoned T5 Main Street Open (T5-O), which allows for the proposed multi-family residential use, density, and building height by-right.

More specifically, FSL is proposing two new development projects on the Property—San Francisco Square and Aspen Lofts. San Francisco Square is planned as a permanently affordable, age-restricted, independent senior living community containing 70-units in a five-story building located on the approximate north-half of the Property. Aspen Lofts is planned as a permanently affordable, family-oriented community containing 76-units in a five-story building on the approximate south-half of the Property. San Francisco Square and Aspen Lofts will be separated by a new east-west pedestrian paseo and civic space for public and resident use, which also helps to provide an uninterrupted pedestrian connection to Thorpe Park to the west. The four adjoining streets will include expanded sidewalks, along with new landscaping, further improving the public and resident pedestrian experience in and around the area. In addition, FSL is planning to provide nearly 100 parking spaces dedicated for City Courthouse and public use.

In order to facilitate development, FSL filed application PZ-19-00031-06 for an Adjustment of Property Development Standards and Parking Incentive ("Application"). See enclosed Site Plan and Perspective Renderings. The Application includes development standards which respond to the fairly significant downward slope (from north to south) of the Property, along with constraints related to the surrounding street network and roadway alignments. In addition, the T5-O zone includes development standards intended to regulate a wide variety of uses, such as commercial, services, and residential; however, given that proposed development is residentially focused, the Application includes residentially-tailored development standards. Finally, the Application includes development standards which respond to the Property's unique configuration as an entire City block, resulting in the development having frontage on four different streets. A list of the anticipated Property Development Standard Adjustments and Parking Incentive is enclosed with this letter.

The purpose of this correspondence is to inform you that the Application has been scheduled for public hearing before the Flagstaff City Council, as follows:

Tuesday, April 5, 2022 at **3:00 PM**
Flagstaff City Council Chambers
211 West Aspen Avenue
Flagstaff, Arizona 86001

Please visit **https://www.flagstaff.az.gov/328/Meeting-Protocols-Information** for instructions on how to participate in the virtual meeting and submit written comments prior to the start of the meeting. The meeting will be held **in person** and **virtually**.

Please confirm meeting details by calling the City's Planning & Development Services Section at (928) 213-2611, as they are subject to change. Any interested person or authorized agent may appear and be heard at the hearing.

The City Council will conduct a public hearing for and take action on the Application. The City Planner assigned to this case is Ms. Alaxandra Pucciarelli. Ms. Pucciarelli can be reached at 928-213-2640 or APucciarelli@flagstaffaz.gov. She can answer your questions regarding the City's review and hearing processes, and provide copies of development file materials for the Application.

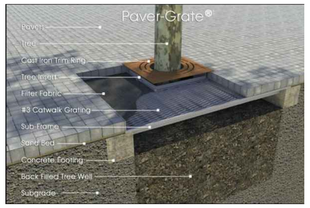
Should you have any questions, please do not hesitate to contact me at **(602) 256-4471** or **lschube@gblaw.com**. Thank you.

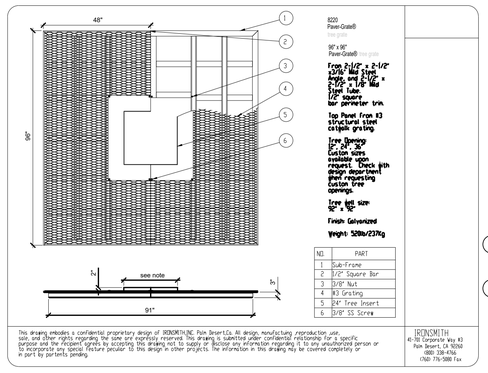
Sincerely,

GAMMAGE & BURNHAM, P.L.C.

By
Lindsay C. Schube

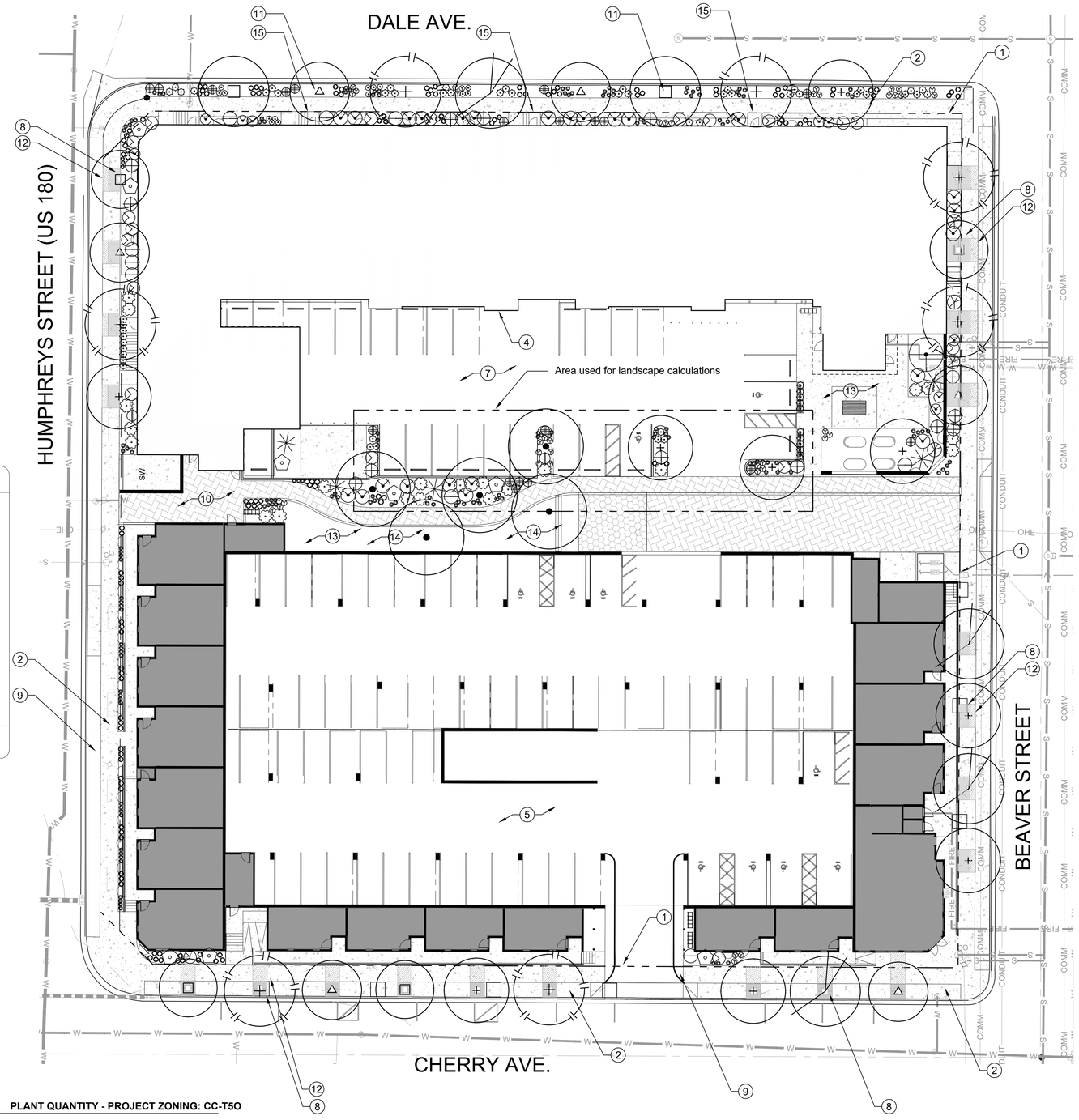
LCS/sr
Enclosures





1 IRONSMITH - PAVER GRATE

3/8" = 1'-0"



PLANT QUANTITY - PROJECT ZONING: CC-T5O

LANDSCAPE AREA	REQUIRED	PROPOSED
PARKING		
TREES	2 PER 8 PARKING SPACES	5
SHRUBS	2 PER TREE	2 PER TREE MIN
GROUNDCOVER	2 PER TREE	7 PER TREE MIN.

LANDSCAPE KEY NOTES

1. Property line
2. New sidewalk - see Civil drawings for more information
3. New curb and gutter - see Civil drawings for more information
4. 2nd floor above - see Architecture drawings for more information
5. Future Building - see Architecture drawings for more information
6. not used
7. Parking Lot - See Civil and Architecture drawings for more information
8. Trees with paver grates under pavers - along Humphreys Street, Beaver Street and Cherry Ave.
   Product Info:
   Manufacturer: Ironsmith
   Product: PAVERGRATE
   Size at Humphrys: 96" half grate.
   Size at Cherry: 60" full grate
   Size at Beaver:
   96" full grate between Paseo and Dale
   96" half grate between Paseo and Cherry
   See Detail 1 this page for typ detail and images
9. Existing concrete sidewalk - see Civil drawings for more information.
10. Interior sidewalk - see Architecture for more information
11. Trees in landscape area - along Dale Ave.
12. Pavers over conc or sand set
13. Picnic Area
14. Play Area with sand or approved equal play groundcover
15. Landing

General Notes: Landscape to confirm with all requirements of 10-50.60 for Zoning CC-T5O

Top dressing: 1" table mesa brown in all landscape areas.

LANDSCAPE LEGEND

Furnish and install landscape material per plans, details and specifications. All plant material to meet ANA specifications and be of sound health and appearance.

TREES	Size	Qty	Native/ Naturalized/ Non-Native
Acer x freemanii *Freeman Maple*	2" caliper	9	Naturalized
Fraxinus pennsylvanica *Green Ash*	3" caliper	6	Naturalized
Gleditsia triacanthos *Thornless Honeylocust*	3" caliper	6	Native
Plantanus x acerifolia *London Plane*	3" caliper	7	Naturalized
Populus tremuloides *Quaking Aspen*	2" caliper	5	Native
Prunus Padus *European Bird Cherry*	1" caliper	4	Naturalized
SHRUBS			
Amelianchier alnifolia *Saskatoon Serviceberry*	5 gallon	1	Native
Arctostaphylos sp. *Manzanita*	5 gallon	8	Native
Chrysothamnus nauseosis *Rabbitbrush*	5 gallon	2	Native
Cornus stolonifera *Red twig Dogwood*	5 gallon	33	Naturalized
Fallugia paradoxa *Apache Plume*	5 gallon	19	Native
Mahonia aquifolium *Holly Oregon Grape*	5 gallon	4	Naturalized
Rhus trilobata *Three Leaf Sumac*	5 gallon	23	Naturalized
Rhus typhina *Staghorn Sumac*	5 gallon	5	Naturalized
Ribes aureum *Golden Currant*	5 gallon	13	Native
Ribes inebrians *Wax Currant*	5 gallon	6	Native
VINE			
Parthenocissus species *Virginia Creeper*	1 gallon	30	Naturalized
GROUNDCOVER			
Achillea tomentosa *Wooly Yarrow*	1 gallon	149	Native
Cerastium tomentosum *Snow in Summer*	1 gallon	30	Native
Mahonia repens *Creeping Mahonia*	1 gallon	19	Native
Nepeta faassenii *Catmint*	1 gallon	59	Naturalized
Oenothera hookeri *Hooker Evening Primrose*	1 gallon	123	Naturalized
Stachys byzaniana *Lambs Ear*	1 gallon	14	Naturalized

REGISTERED LANDSCAPE ARCHITECT CHRISTOPHER R. WINTERS CERTIFICATE NO. 32903 ARIZONA U.S.A.
NOT FOR CONSTRUCTION
EXPIRES 12-30-2021

Chris Winters & Associates
landscape architecture urban design
902 w roosevelt phx arizona 85003
602 / 254-9406 fx 602 / 254 9406
email cw@cwadesign.com

Foundation for Senior Living
San Francisco Square
320 N. Humphreys St.
Flagstaff, AZ 86001
LANDSCAPE PLAN

Drawn: LM
Checked: CW
Date: 9.15.2021
Revisions:

CITY NUMBERS

LANDSCAPE PLAN

L2
2 of 6

Two working days before you dig CALL FOR THE BLUE STAKES 263-1100 Blue Stake Center CALL COLLECT

1"=20'-0" 0 10 20 40

NORTH

CHRIS WINTERS RETAINS OWNERSHIP OF ALL PLANS PLANS SHALL NOT TO BE REPRODUCED OR USED FOR CONSTRUCTION PURPOSES WITHOUT FULL PRIOR WRITTEN CONSENT OF CHRIS WINTERS

PLEASE RECYCLE

1 SITE PLAN - Level 2
1" = 20'-0"

IF THIS IS NOT 24"X36", IT IS A REDUCED PRINT - SCALE ACCORDINGLY

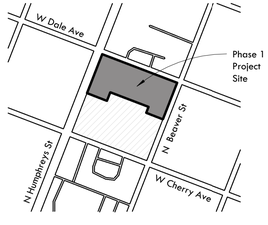
9/23/2021 3:23:59 PM

PHASE 1 INFORMATION

DEVELOPMENT NAME:	SAN FRANCISCO SQUARE
GROSS BUILDING FOOTPRINT:	19,131 GSF
PERMITTED BUILDING HEIGHT:	2 STORY MIN - 5 STORY MAX
PROPOSED BUILDING HEIGHT:	5 STORIES
NUMBER OF UNITS:	70 UNITS
BUILDING AREA:	88,063 GSF
GROUND FLOOR CEILING:	10'-0" PROVIDED - 14'-0" MIN REQUIRED
UPPER FLOOR CEILING:	9'-0" PROVIDED - 12'-0" MAX ALLOWED
DISTANCE BETWEEN ENTRIES:	46'-2" MAX. SEE PLAN.
BTL DEFINED BY BUILDING:	PRIMARY (DALE): 100% SECONDARY (HUMPHREYS): 76% SECONDARY (BEAVER): 60%
GROUND FLOOR FINISH LEVEL:	6'-8" MAX ABOVE NATURAL GRADE
BUILDING TYPE:	COMMERCIAL BLOCK
LOT SIZE:	WIDTH: 290'-4" DEPTH: 144'-8"
LOT ACREAGE:	.83 NET ACRES 1.20 GROSS ACRES
LOT COVERAGE:	54%
LOT 1 DWELLING UNITS PER ACRE:	70 UNITS / .83 NET ACRES = 84.3 DU/ACRE
CONSTRUCTION TYPE:	1 STORY IA / 4 STORIES VA
OCCUPANCY TYPE:	R-2 RESIDENTIAL
FIRE SPRINKLER SYSTEM:	NFPA-13 DEFFERED SUBMITTAL
RENTAL/FOR SALE:	RENTAL

PHASE 2 INFORMATION

DEVELOPMENT NAME:	ASPEN LOFTS
GROSS BUILDING FOOTPRINT:	38,100 GSF
PERMITTED BUILDING HEIGHT:	2 STORY MIN - 5 STORY MAX
PROPOSED BUILDING HEIGHT:	5 STORIES
NUMBER OF UNITS:	76 UNITS
BUILDING SQUARE FOOTAGE:	RESIDENTIAL: 81,786 GSF PARKING GARAGE: 71,000 GSF TOTAL: 152,786 GSF
GROUND FLOOR CEILING:	10'-0" PROVIDED - 14'-0" MAX ALLOWED
UPPER FLOOR CEILING:	9'-0" PROVIDED - 12'-0" MAX ALLOWED
DISTANCE BETWEEN ENTRIES:	61'-7" MAX. SEE PLAN.
BTL DEFINED BY BUILDING:	PRIMARY (CHERRY): 75% SECONDARY (HUMPHREYS): 82% SECONDARY (BEAVER): 68%
GROUND FLOOR FINISH LEVEL:	3'-0" MAX ABOVE NATURAL GRADE
BUILDING TYPE:	COMMERCIAL BLOCK
LOT SIZE:	WIDTH: 293'-0" DEPTH: 200'-0"
LOT ACREAGE:	1.23 NET ACRES 1.61 GROSS ACRES
LOT COVERAGE:	73%
LOT 2 DWELLING UNITS PER ACRE:	76 UNITS/ 1.23 NET ACRES = 61.8 DU/ACRE
CONSTRUCTION TYPE:	2 STORIES IA / 3 STORIES VA 4 STORIES VA
OCCUPANCY TYPES:	S-2 PARKING GARAGE R-2 RESIDENTIAL
FIRS SPRINKLER SYSTEM:	NFPA-13 DEFFERED SUBMITTAL
RENTAL/FOR SALE:	RENTAL



VICINITY MAP

PROJECT INFORMATION

SITE ADDRESS:	320 N. HUMPHREYS FLAGSTAFF, AZ 86001
ASSESSOR'S PARCEL NUMBER (APN):	101-13-008A
PROPERTY OWNER'S NAME AND CONTACT INFORMATION:	FSL | STEVE HASTINGS 1201 E. THOMAS RD. PHOENIX, AZ 85014 SHASTINGS@FSL.ORG 480.241.1155
PREPARER'S NAME AND CONTACT INFORMATION:	PEAK ENGINEERING | JULIE LEID 110 N. AGASSIZ STREET FLAGSTAFF, AZ 86001 JULIE@PEAKEGR.COM 928.814.8208
SITE ACREAGE - TOTAL:	2.06 NET ACRES 2.81 GROSS ACRES
ZONE DISTRICT:	T5-O (OPEN)
MATERIALS MANAGEMENT REQUIREMENTS - P1:	3 CY PER 20 UNITS 70 UNITS / 20 UNITS = 4 x 3 CY 12 CY - TRASH AND RECYCLING EACH
PROVIDED REFUSE - P1:	12 CY - TRASH AND RECYCLING EACH
MATERIALS MANAGEMENT REQUIREMENTS - P2:	3 CY PER 20 UNITS 76 UNITS / 20 UNITS = 4 x 3 CY 12 CY - TRASH AND RECYCLING EACH
PROVIDED REFUSE - P2:	12 CY - TRASH AND RECYCLING EACH
OPEN SPACE / CIVIC SPACE REQUIRED:	POCKET PARK: 4,000 SF MIN
OPEN SPACE / CIVIC SPACE PROVIDED:	4,212 SF
FRONTAGES AND FRONTAGE MODIFICATION:	FORECOURT, PORCH: ENGAGED FRONTAGE ALONG PHASE 1 (DALE, BEAVER AND HUMPHREYS). MODIFIED FORECOURT ALONG PHASE 1 HUMPHREYS (LESS THAN 12' WIDTH) TERRACE/LIGHTWELL FRONTAGE ALONG PHASE 2 (CHERRY, BEAVER AND HUMPHREYS)

SITE PLAN NOTES

- ALL STREET TREES, IRRIGATION AND ASSOCIATED MAINTENANCE ARE THE RESPONSIBILITY OF THE PROPERTY OWNER AND NOT THE CITY OF FLAGSTAFF.
- ALL SNOW REMOVAL ALONG THE SIDEWALK (ALL FOUR BLOCKS) ARE THE RESPONSIBILITY OF THE PROPERTY OWNER, AND NOT THE CITY OF FLAGSTAFF.

LEGAL DESCRIPTION

Subdivision: FLAGSTAFF TOWNSITE
Block: 45 Lot: 1 THRU- Lot: 24, & ALL E-W&N-S ALLEYS.
LESS:225 SF TO FLAGSTAFF CITY OF 1531/093.

Assessor's Description:
Sixteenth: NE Quarter: SE Section: 16 Township: 21N Range: 07E
Sixteenth: NW Quarter: SW Section: 15 Township: 21N Range: 07E
PARCEL ALSO LOCATED IN SEC 15 21N-7E NW1/4 SW1/4 RAILROAD ADD

SITE PLAN LEGEND

- PROPERTY LINE
- IMAGINARY PROPERTY LINE
- EASEMENT
- RIGHT-OF-WAY
- BUILDING SETBACK
- LANDSCAPE SETBACK
- ACCESSIBLE ROUTE
- FIRE ACCESS ROUTE
- VEHICULAR ROUTE
- WASTE ACCESS ROUTE
- BUILDING OVERHEAD
- OVERHEAD UTILITIES
- UNDERGROUND RETENTION
- FENCE AND GATE
- BUILDING FOOTPRINT
- CIVIL SPACE
- CONCRETE
- SITE VISIBILITY TRIANGLE

ARCHITECTURAL RESOURCE TEAM
1055 e indian school rd
phoenix, az 85014
602-307-5399 | v
www.art-team.com

Foundation for Senior Living
San Francisco Square
320 N. Humphreys St.
Flagstaff, AZ 86001

SITE PLAN REVIEW

Revision Schedule		
No.	Date	Description

ART PROJECT NO.	20030
DATE	08.20.2021
DRAWN BY	ZH
CHECKED BY	DMc

THIS DRAWING IS AN INSTRUMENT OF SERVICE AND THE PROPERTY OF ARCHITECTURAL RESOURCE TEAM, INC. THIS DRAWING MAY NOT BE REPRODUCED, OR REPRODUCTIONS HEREOF USED, WITHOUT WRITTEN PERMISSION

PRELIMINARY NOT FOR CONSTRUCTION
09/30/2022

DRAWING TITLE
Site Plan

DRAWING No.
SP1.12

PLEASE RECYCLE

IF THIS IS NOT 24"X36", IT IS A REDUCED PRINT - SCALE ACCORDINGLY

11/10/2021 1:56:25 PM

1 Street Perspective - N Humphreys St + W Cherry Ave

PHASE 1 MATERIAL LEGEND

- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR; DUNN EDWARDS DE6370 - CHARCOAL SMUDGE — LRV; 11
- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR; PAINT DUNN EDWARDS DE5845 - AMERICANA — LRV; 16
- STANDING SEAM ROOF — ATAS COLONIAL SEAM ROOF SYSTEM — COLOR: CHARCOAL GREY — 10.01
- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR; DUNN EDWARDS DE6375 - CASTLEROCK — LRV; 37
- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR; PAINT DUNN EDWARDS DET685 - MISSION GOLD — LRV;29
- CONCRETE
- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR; DUNN EDWARDS DE5839 - INK BLOTCH — LRV; 10
- FIBER CEMENT PANEL SIDING (BOARD & BATTEN) — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR; DUNN EDWARDS DE6370 - CHARCOAL SMUDGE — LRV; 11
- BRAKE METAL FASCIA — COLOR: DUNN EDWARDS DE6370- CHARCOAL SMUDGE — LRV; 11
- BRICK VENEER — INTERSTATE BRICK — COLOR; RED MOUNTAIN
- BRICK VENEER — INTERSTATE BRICK — COLOR; BRONZESTONE

PHASE 2 MATERIAL LEGEND

- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE6370 - Charcoal Smudge — LRV: 11
- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Paint Dunn Edwards DEA151 - RED INK — LRV: 11
- STANDING SEAM ROOF — ATAS Colonial Seam Roof System — COLOR: Charcoal Grey — 10.01
- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE6375 - Castlerock — LRV: 37
- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Paint Dunn Edwards DET685 - Mission Gold — LRV;29
- CONCRETE
- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE5251 - SPICE CAKE — LRV: 22
- FIBER CEMENT PANEL SIDING (BOARD & BATTEN) — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE6370 - Charcoal Smudge — LRV: 11
- BRAKE METAL FASCIA — COLOR: Dunn Edwards DE6370- Charcoal Smudge — LRV: 11
- BRICK VENEER — Interstate Brick — COLOR: Red Mountain
- BRICK VENEER — Interstate Brick — COLOR: Bronzestone

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Foundation for Senior Living
San Francisco Square

320 N. Humphreys St.
Flagstaff, AZ 86001

CONSTRUCTION DOCUMENTS

Revision Schedule		
No.	Date	Description

ART PROJECT NO.
20030

DATE
10.28.2021

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1 Street Perspective - N Hmphreys St + W Dale Ave

PHASE 1 MATERIAL LEGEND

- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR: DUNN EDWARDS DE6370 - CHARCOAL SMUDGE — LRV: 11
- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR: DUNN EDWARDS DE6375 - CASTLEROCK — LRV: 37
- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR: DUNN EDWARDS DE5839 - INK BLOTCH — LRV: 10
- BRICK VENEER — INTERSTATE BRICK — COLOR: RED MOUNTAIN
- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR: PAINT DUNN EDWARDS DE5845 - AMERICANA — LRV: 16
- FIBER CEMENT PANEL SIDING — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR: PAINT DUNN EDWARDS DET685 - MISSION GOLD — LRV:29
- FIBER CEMENT PANEL SIDING (BOARD & BATTEN) — BORAL TRUEXTERIOR CHANNEL SIDING — COLOR: DUNN EDWARDS DE6370 - CHARCOAL SMUDGE — LRV: 11
- BRICK VENEER — INTERSTATE BRICK — COLOR: BRONZESTONE
- STANDING SEAM ROOF — ATAS COLONIAL SEAM ROOF SYSTEM — COLOR: CHARCOAL GREY — 10.01
- CONCRETE
- BRAKE METAL FASCIA — COLOR: DUNN EDWARDS DE6370- CHARCOAL SMUDGE — LRV: 11

PHASE 2 MATERIAL LEGEND

- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE6370 - Charcoal Smudge — LRV: 11
- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE6375 - Castlerock — LRV: 37
- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE5251 - SPICE CAKE — LRV: 22
- BRICK VENEER — Interstate Brick — COLOR: Red Mountain
- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Paint Dunn Edwards DEA151 - RED INK — LRV: 11
- FIBER CEMENT PANEL SIDING — Boral TruExterior Channel Siding — COLOR: Paint Dunn Edwards DET685 - Mission Gold — LRV:29
- FIBER CEMENT PANEL SIDING (BOARD & BATTEN) — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE6370 - Charcoal Smudge — LRV: 11
- BRICK VENEER — Interstate Brick — COLOR: Bronzestone
- STANDING SEAM ROOF — ATAS Colonial Seam Roof System — COLOR: Charcoal Grey — 10.01
- CONCRETE
- BRAKE METAL FASCIA — Boral TruExterior Channel Siding — COLOR: Dunn Edwards DE6370- Charcoal Smudge — LRV: 11

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1 Street Perspective - N Humphreys St

PHASE 1 MATERIAL LEGEND

- FIBER CEMENT PANEL SIDING BORAL TRUEXTERIOR CHANNEL SIDING COLOR: DUNN EDWARDS DE6370 - CHARCOAL SMUDGE LRV: 11
- FIBER CEMENT PANEL SIDING BORAL TRUEXTERIOR CHANNEL SIDING COLOR: PAINT DUNN EDWARDS DE5845 - AMERICANA LRV: 16
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- BRICK VENEER INTERSTATE BRICK COLOR: BRONZESTONE

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ARIZONA, U.S.A.

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PROPERTY DEVELOPMENT STANDARD ADJUSTMENTS & PARKING INCENTIVE

1. 10-40.40.090.E—Request for a maximum 9 FT distance between the exterior sidewalk and the ground floor finish level.
2. 10-40.40.090.E—Request for a maximum 79 FT distance between building entries for Phase I and 123 FT for Phase II.
3. 10-40.40.090.E—Request for a build-to-line to 6 FT.
4. 10-50-110.180.B—Request for a maximum lot width and depth for new lots 290 FT in width (east-west) and 205' in depth (north-south).
5. 10-50.120.50.C—Request to allow some porches that are open only to the front.
6. 10-50.120.080.C—Request to allow more than one forecourt on a block frontage.
7. 10.40.40.090.E—Request to allow for an 8 FT ground floor ceiling height.
8. 10.40.40.090.E—Request to allow ground floor units that are a minimum depth of 15 FT.
9. 10-50.110.180.E—Request to allow for porches within a Commercial Block.
10. 10-50.120.080.B—Request to allow for a forecourt that is 10.5 FT in width.
11. 10-40.40.090.D—Request to allow for rail fencing to meet the build-to-line.
12. 10-40.40.090.E—Request to allow for buildings wider than 100 FT to not be designed as a series of building no wider than 75 FT.
13. 10-50.80.050.B.1.c—Request to allow for bicycle parking within 85 FT from a primary building entrance.
14. 10-40.40-090.G—Request to allow for a 14 FT ground floor parking setback.
15. 10-50.120.070.B—Request to allow for a lightwells 4 FT in width.
16. 10-40.40.090.G—Request to allow for 114 parking spaces and 97 City Courthouse and public parking spaces.

13. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	03/30/2022
Meeting Date:	04/05/2022

TITLE

Future Agenda Item Request (F.A.I.R.): A request by Councilmember Salas to place on a future agenda a discussion about bringing back the city-owned parcel at Shultz Pass to the list of properties to be developed for workforce housing.

STAFF RECOMMENDED ACTION:

Council direction.

EXECUTIVE SUMMARY:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Salas has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there are two other members of Council interested in placing it on a future agenda.

INFORMATION:

Attachments: Flagstaff Community Case Studies

CITY OF FLAGSTAFF

OFFICE OF THE MAYOR
211 West Aspen Avenue, Flagstaff, Arizona 86001
Main Line: 928-213-2000
Website: https://www.flagstaff.az.gov

Flagstaff Community Case Studies

Written for the Mayor's Community Policy Trust under the Office of Coral Evans in 2020, the case studies in this document consolidate the history of four major issues faced by members of the Flagstaff community. Each case study represents a complex policy area in which numerous stakeholders are motivated to work for the good of the community yet face constraints from factors such as state and federal legislation and conflicting public interests. In forwarding the purpose of the Mayor's Community Policy Trust, these case studies are intended to provide continuity and consistency regarding the history and purpose of long-term policy goals, as well as provide insight regarding effective policy solutions for ongoing community issues.

Keep Families Free and Together (Pg. 2)

This case study examines immigration-related legislation, litigation, and community activism efforts linked to the Flagstaff City Council's Keep Families Free and Together proclamation.

History of the Schultz Parcel (Pg. 7)

While Flagstaff is surrounded by beautiful forests and open spaces, it also faces a high cost of living and a limited supply of available housing. This case study provides an overview of the history of the City-owned Schultz Pass property, the various uses that have been proposed for it, and City Council action to-date.

Flagstaff's Minimum Wage (Pg. 13)

Incorporating the viewpoints of Flagstaff voters, employees, business owners, the City Council, citizen interest groups and the state legislature, this case study provides an overview Flagstaff's minimum wage by reviewing the timeline of relevant events and contextualizing the actions and reactions of the various stakeholders involved.

The Closure of Arrowhead Village Mobile Home Park (Pg. 19)

This case study introduces the circumstances surrounding the closure of the Arrowhead Village Mobile Home Park and explores the role residents, community activists, the City of Flagstaff, and City Council played during the event to learn what can be done in the future to avoid further displacements.

Keep Families Free & Together

Legislation, Outcomes & Alternative Approaches

Photo Credit: Arizona Daily Sun

The enforcement of immigration-related legislation has become a complex topic for localities across the country as they strive to serve their communities with compassion but must also abide by both state and federal law.

This case study provides an overview of relevant legislation, litigation, and community activism efforts that led up to the Flagstaff City Council's Keep Families Free and Together proclamation, as well as offering an examination of alternative approaches to local immigration policy enforcement.

Timeline of Keep Families Free and Together Events

Spring 2010 – State Legislature Passes SB1070 and SB2162

The Arizona state legislature changed the field of immigration enforcement significantly when it passed the Support Our Law Enforcement and Safe Neighborhoods Act, also known as SB1070, in April of 2010. This law created new immigration-related crimes and gave local law enforcement new authorities when interacting with the public. Several of the most cited provisions within SB1070 include creating a state trespassing violation for having an "unlawful presence", as well as requiring local law enforcement to attempt to determine a person's immigration status if the officer develops "a reasonable suspicion that the person is an alien". [12] This wording created fears that local law enforcement would be able to legally engage in racial profiling of the people they interact with.

After strong negative reaction around the country on the possibility of racial profiling resulting from SB1070, the Arizona state legislature passed SB2162, which prohibited law enforcement from considering ethnicity, skin color, or perceived national origin when implementing SB1070. The new law also clarified that law enforcement may only reasonably attempt to determine an individual's immigration status while enforcing other laws or ordinances.[3]

2010 – 2012 – Initial Court Challenges and Reaction in Flagstaff

The first of multiple legal challenges to SB1070 arose only a few months after its passage in July 2010 when the U.S. Department of Justice sued the state of Arizona, asserting that federal law preempted state law in immigration enforcement. The U.S. Supreme Court ruled that three of the four major provisions[4] that make up SB1070 are preempted by federal law and therefore unconstitutional. However, the Court did find that state and local law enforcement can communicate with the federal Immigrations and Customs Enforcement (ICE) agency during otherwise lawful arrests.[5]

In September 2012, Flagstaff Police Department Special Order 12-030 was issued, instructing officers to "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". The Special Order states that local law enforcement should not limit or restrict immigration enforcement at the federal or state level.[6]

Spring 2016 – State Legislature Passes SB1487

In early 2016, the Arizona legislature passed SB1487, which allows the state to withhold shared revenues from localities that are determined by the Arizona Attorney General to have violated state law.[7] This legislation is amongst the strongest local preemption legislation in the country and creates a significant financial penalty for cities that violate state law. SB1487 applies to all types of state law violations, including immigration law violations.

Spring 2016 – Arrest of Frankie Madrid and Subsequent Deportation

In January of 2016, Francisco "Frankie" Madrid-Holguin was arrested in Flagstaff for possession of narcotic drugs for sale, possession of drug paraphernalia and carrying a weapon in the commission

of a felony crime. Madrid had lived in Flagstaff since infanthood and was undocumented. He was also well-known in the community as a committed activist for LGBTQ and immigration rights. After serving 1.5 years in detention and prison in the United States, he was deported to Mexico (his country of birth) in August of 2017.[8] Less than two months after his deportation, Madrid took his own life while residing in Hermosillo, Mexico. Madrid's family and friends subsequently urged the Flagstaff City Council to oppose the Coconino County Jail policy of honoring 48-hour ICE detainers[1] for undocumented inmates.[9]

Spring 2018 – City of Flagstaff Policy and Lawsuit against Coconino Country

Immigration-focused legal challenges continued in April 2018 when a lawsuit was filed against the Coconino County Jail District Board of Directors, asking the Court to determine if the County's policy of complying with ICE detainers was legal. A U.S. District Judge found that Coconino County's policy of complying with ICE detainers did not violate state or federal law and dismissed the lawsuit. The judge explained his reasoning, stating that Constitutional law does not bar Coconino County from complying ICE requests to hold inmates, but also suggests that state law does not explicitly compel Coconino County to grant ICE detainer requests. Due to this ambiguity, the community group Keep Flagstaff Together argued that the judge's ruling supports the assertion that Coconino County can use discretion in whether or not it complies with ICE detainer requests.[10] [11] [12]

In March 2018, the Flagstaff City Council requested a City Council Report from the Flagstaff Police Department on the impacts of SB1070 on local police operations and ICE operations within the city. The resulting report stated that Flagstaff Police Department policy instructs officers to follow SB070, including that a police officer must make reasonable attempts to determine the immigration status of a detainee *only* if an officer develops a reasonable suspicion that a detainee is unlawfully present in the U.S. during a legal stop. The Flagstaff Police Department policy also instructs officers to contact ICE *only* if a reasonable suspicion exists that a detainee is unlawfully present. Due to data limitations, the report was unable to determine how many individuals arrested by Flagstaff Police Department later receive ICE detainers after their booking into the Coconino County jail. The Flagstaff Chief of Police noted, however, that "no Flagstaff Police Officer has transported an individual to the Coconino County Jail solely for an ICE "hit" or hold with no other criminal charges since the enactment of SB1070".[13] During the lawsuit against Coconino County, State Representative Bob Thorpe also contacted Flagstaff's City Attorney and threatened that if the Flagstaff City Council continued its involvement in the County's policy of compliance with ICE detainer requests, Thorpe would file a complaint with the attorney general to request an investigation.[14]

2018 – 2019 – City of Flagstaff Resolution, Proclamation and Policy Changes

In May of 2018 Flagstaff City Council passed a resolution regarding Coconino County Detention Centre Policy. The vote was 4 to 3 in favor of the resolution and recommended that the Coconino

[1] An ICE detainer is essentially a request from ICE that local law enforcement agencies keep an individual in custody for up to 48 hours after their release date and time to allow ICE to assume custody to remove the individual from the country.

County Sheriff changes the policy of honoring ICE detainers for those booked into Coconino County jail if suspected of being in the country without documentation.[15]

In further action by the Flagstaff City Council, in November 2018, a councilmember provided a proposed draft ordinance on the topic of Keep Families Free and Together, which proposed to amend Title 14 of the City Code with an additional chapter. Council held an executive session on the proposed ordinance in April 2019 and in September of the same year, issued a non-binding proclamation describing the steps the Flagstaff Police Department has taken to develop an immigration policy that both complies with state law and builds trust with the community. It proclaimed Flagstaff as an "inclusive and welcoming community recognizing that compliance with the law is required and that the Flagstaff Police Department will continue its efforts to enforce the law compassionately and with sensitivity to the immigration community".[16] [17]

In July of 2019, the Flagstaff Police Department also made significant changes to its Immigration Enforcement Policy (Policy 429), which is used to guide officers in managing investigations into issues of immigration enforcement. The first notable change is that where officers were previously strongly advised against making immigration status inquiries during consensual contacts with juveniles, victims and witnesses of crimes, officers are now prohibited from doing so (pg. 390). Additionally, Policy 429 was changed to note that if a person is arrested and booked into jail, the Flagstaff police officer does not need to conduct an immigration inquiry as that will be done by the jail prior to the parson's release. It is also noted in the updated policy that a Flagstaff police officer may inquire about a person's county of citizenship for consular notification reasons when arresting a person and booking them into a jail facility, but that officer is not required to inquire into immigration status or contact ICE (pg. 394).[18]

Alternative Approaches

State and federal laws create a challenging legal situation for local governments when crafting their immigration policies. In Arizona, that environment is made more complex by the existence of SB1070, which creates new immigration-related crimes, and by SB1487, which threatens significant financial penalties for cities and towns that are interpreted to have not complied with state law. In combination, these two pieces of legislation greatly restrict the actions that local governments in Arizona can take regarding immigration.

Other localities in different states may be operating in an environment that allows for a less strict interpretation of federal regulations due to the lack of state preemption as seen in Arizona. For example, in Colorado, it was determined that local sheriffs do not have authority to partake in immigration law and that Colorado lacks a statue prohibiting local law enforcement from cooperating with federal agents. As a result, local law enforcement agencies may not grant ICE detainer requests.[19] Similarly in Illinois, the Illinois TRUST Act bans local police officers and deputies from working with ICE and from complying with ICE detainers. The Illinois Keep Families Together Act ensures that all State agencies, public schools, and public institutions of higher education are available to all residents in Illinois regardless of immigration status and prevents law enforcing agencies from inquiring about immigration status, even if an individual is arrested, detained, in custody, in questioning, or seeking assistance as the victim of a crime.[20]

[1] https://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf
[2] https://www.ncsl.org/research/immigration/analysis-of-arizonas-immigration-law.aspx
[3] https://apps.azleg.gov/BillStatus/BillOverview?billnumber=HB2162&Sessionid=93
[4] The first provision made it a state crime to reside in the United States without legal permission. The second provision made it a state crime to work in the United States without legal permission. The third provision required law enforcement officers to verify the legal status of all individuals who were arrested or detained. The fourth provision allowed law enforcement officers to arrest individuals without a warrant based on probable cause of unlawful presence.
[5] https://www.ncsl.org/research/immigration/analysis-of-arizonas-immigration-law.aspx
[6] https://www.flagstaff.az.gov/DocumentCenter/View/40866/Special-Order-12-030-Immigration-Enforcement-English?bidId=
[7] https://apps.azleg.gov/BillStatus/BillOverview?billnumber=1487&Sessionid=115
[8] https://azdailysun.com/news/did-frankie-madrid-have-to-die/article_96b0a7ea-51da-587e-a5f1-20aa483ef170.html
[9] https://azdailysun.com/news/local/flagstaff-city-council-moves-forward-with-anti-ice-detainer-resolution/article_a9440baf-a88e-5d81-a485-6809b1e17d73.html
[10] https://azdailysun.com/news/local/coconino-county-sheriff-s-policy-on-ice-holds-survives-initial/article_eed4d2e1-2aae-5284-8965-6487756f2d89.html
[11] https://apnews.com/41acbc652ea64f8e9e57276d29acf151
[12] https://azdailysun.com/news/local/suit-lands-coconino-county-jail-policy-on-ice-detainers-in/article_48067da8-2525-5a0b-bdb7-73bc1d0ede7b.html
[13] https://www.flagstaff.az.gov/DocumentCenter/View/57337/CCR-SB-1070?bidId=
[14] https://azdailysun.com/news/local/suit-lands-coconino-county-jail-policy-on-ice-detainers-in/article_48067da8-2525-5a0b-bdb7-73bc1d0ede7b.html
[15] RES2018.23.JailDententionPolicy McCarthy Revised.docx
[16] https://www.flagstaff.az.gov/DocumentCenter/View/62763/October---Keeping-Families-Free-and-Together-Month
[17]http://cityweb.flagstaffaz.gov/agendaquick/agenda_publish.cfm?disp_minutes=883&disp_minutes_ln=9825&id=&form_type=MINUTES&beg_meetmth=ALL&beg_meetyr=2017&end_meetmth=ALL&end_meetyr=2020&mt=ALL&sstr=keep%20families%20free&dept=ALL&hartkeywords=&sortby=f.form_num,%20f.rev_num&fp=ADVSRCH&StartRow=1#ReturnTo9825
[18] https://www.flagstaff.az.gov/DocumentCenter/View/48780/FPD-POLICY-MANUAL?bidId=
[19] https://theappeal.org/politicalreport/colorado-ice-contracts-new-law/
[20] https://www.oakpark.com/News/Articles/7-9-2019/New-laws-on-immigration,-human-trafficking-signed-/

History of the Schultz Parcel

A Timeline from 2005 to 2020

Photo Credit: City of Flagstaff

While the city of Flagstaff is gifted with beautiful scenery, ample outdoor recreation opportunities and rich wildlife habitat, it is also “landlocked” in that it is surrounded by national forest, limiting the land available for housing. This situation, among other factors, has created high housing costs for Flagstaff residents and an interest by some in developing affordable housing units. The placement of these future affordable housing units is debated by community members who are interested in preserving currently undeveloped areas.

This case study provides an overview of the history of the City-owned Schultz Pass property, the various uses that have been proposed for it, and City Council action to-date.

Background

For over a decade, the City of Flagstaff has been investigating the potential use and designation of a three-acre, City-owned piece of property at the corner of Fort Valley and Schultz Pass roads called the Schultz Pass parcel. The Schultz Pass Parcel is located on the northwest corner of the intersection of Highway 180 and Schultz Pass Road.

In 2005, as part of the consideration for an adjacent development, the Flagstaff City Council chose to incorporate the Schultz Pass Parcel into city limits and, at the time, the property was designated for the purpose of affordable housing.[1] The City paid $140,200 for the land and $435,167 for public improvements necessary for future housing development, including engineering, surveying, the installation of public sewer and water, sidewalks, telephone lines, electricity and natural gas. The total cost of the parcel and the public improvements was $575,367. Infrastructure improvements were completed the spring of 2007. Affordable housing funds, resulting from the sale of other parcels for affordable housing purposes, were utilized for this purpose.

The future of the site became more complex and uncertain as the nation and the City dealt with the 2008 economic recession. Originally, the City Council has discussed the development being part of the Land Trust Program, as it was their expectation that future development would be ownership housing. The City of Flagstaff Land Trust Program was created in spring of 2006 and was being designed as a prospective housing development, Schultz Pass Meadows, was going through the entitlement process in the winters of 2005/2006. In the following years, the housing market nationwide changed due to the recession, and there was an increased need for rental housing in the community. Additionally, the funding sources to create such ownership housing largely disappeared. As noted in a 2017 City Council Report from Community Development and Housing Departments, land trusts for affordable housing throughout the United States provide all types of housing options, including, but not limited to: rental, condominiums, townhouses, cooperative housing and homeownership. However, City staff recognized that if the City of Flagstaff retained ownership of the land while partnering with a developer for the creation of affordable rental housing, it would add an additional complicating layer to the financing of development. It is common practice for developers to utilize the land being built upon as collateral for construction financing. If the City retains ownership of this parcel, the land could not be utilized in this way, which would make the funding of an affordable housing development in this site even more difficult.[2]

Stakeholders Involved

The Schultz Pass property is so hotly debated largely due to the variety of stakeholders interested in seeing the land used in different ways. Proponents of using the property to develop affordable housing argue that affordable housing units for rental or purchase in Flagstaff are in extremely short supply and that over half a million dollars has already been invested into this property to be able to offer affordable housing units to Flagstaff residents. Other groups of stakeholders that generally oppose using the Schultz property to develop affordable housing include those with concerns of traffic congestion in the area, those worried about the impact development would have on viewscapes, and those wanting to designate the property as open space to preserve the ecological integrity of the site.[3] [4]

Timeline of Council Actions

2005 to 2007 – Schultz Pass Parcel Purchased and Developed for Affordable Housing Purposes

The Schultz Pass Meadows housing development was proposed by Big Corner LLC in 2005 and encompasses two parcels as shown on the map below: Parcel A was a market rate subdivision and Parcel B was purchased for affordable housing. Parcel B, the Schultz Pass Parcel that is the topic of this paper, is 3.06 acres and was offered to the City by the developer for $140,200 for the purposes of affordable housing. For the proposed development to move forward, the land needed to be annexed into the City, the Regional Plan land use amended, the Urban Growth Boundary expanded, and the parcels rezoned. In evaluation of the offer to sell Parcel B to the City for affordable housing, preliminary site designs were prepared in-house by Karl Eberhard to demonstrate how up to 26 townhome style units could fit on the property. As part of the rezoning process, the proposing developer was required to hold a citizen participation meeting. This meeting took place on July 18, 2005 and notice of the meeting was sent to all property owners within 300 feet of the proposed project site, plus the following organizations: Cheshire Park Townhouse Owners Association, Linwood Heights Homeowners Association, and Friends of Flagstaff's Future. The resulting report is available to review upon request. In addition to the required ads for the Planning and Zoning Commission public hearings, a full color, full page fold-out advertisement was published in the Arizona Daily Sun on October 9 and 19, 2005.

The stated purpose of the acquisition contained in the Development Agreement (DA) was to develop permanently affordable workforce housing; therefore, any development on the parcel is required to be permanently affordable. The DA also stated that a gateway entry sign needed be installed on the parcel, which is currently on the site and will remain. Per the DA, public improvements in the form of curb, gutter, sidewalk with parkways, public sewer and water, telephone, power, and natural gas were provided by the developer on the City's parcel and reimbursed by the City at cost. The City also provided reimbursement for engineering, surveying and testing expenses particular to the improvements on or adjacent to the parcel purchased for affordable housing. Additionally, the City reimbursed the developer for one-half of the cost of bringing the water lines under Highway 180 and under Schultz Pass Road. Public improvements were completed in spring of 2007. The final cost of all public improvements was $435,167.[5]

Spring 2017 – Schultz Pass Property to be Included in RFP for Affordable Housing

In the Spring of 2017, Council directed staff to include the Shultz Pass parcel in a request for proposals to create affordable rental units on multiple pieces of city property.[6] After the Flagstaff City Council received over a hundred public comments on the issue in a June 2017 council meeting advocating for using the land as either open space or for affordable housing, Council stressed the acute need for affordable housing in Flagstaff and directed staff to move forward with the request for proposals.

Schultz Pass Meadows housing development Concept Plan Proposed by Big Corner LLC in 2005

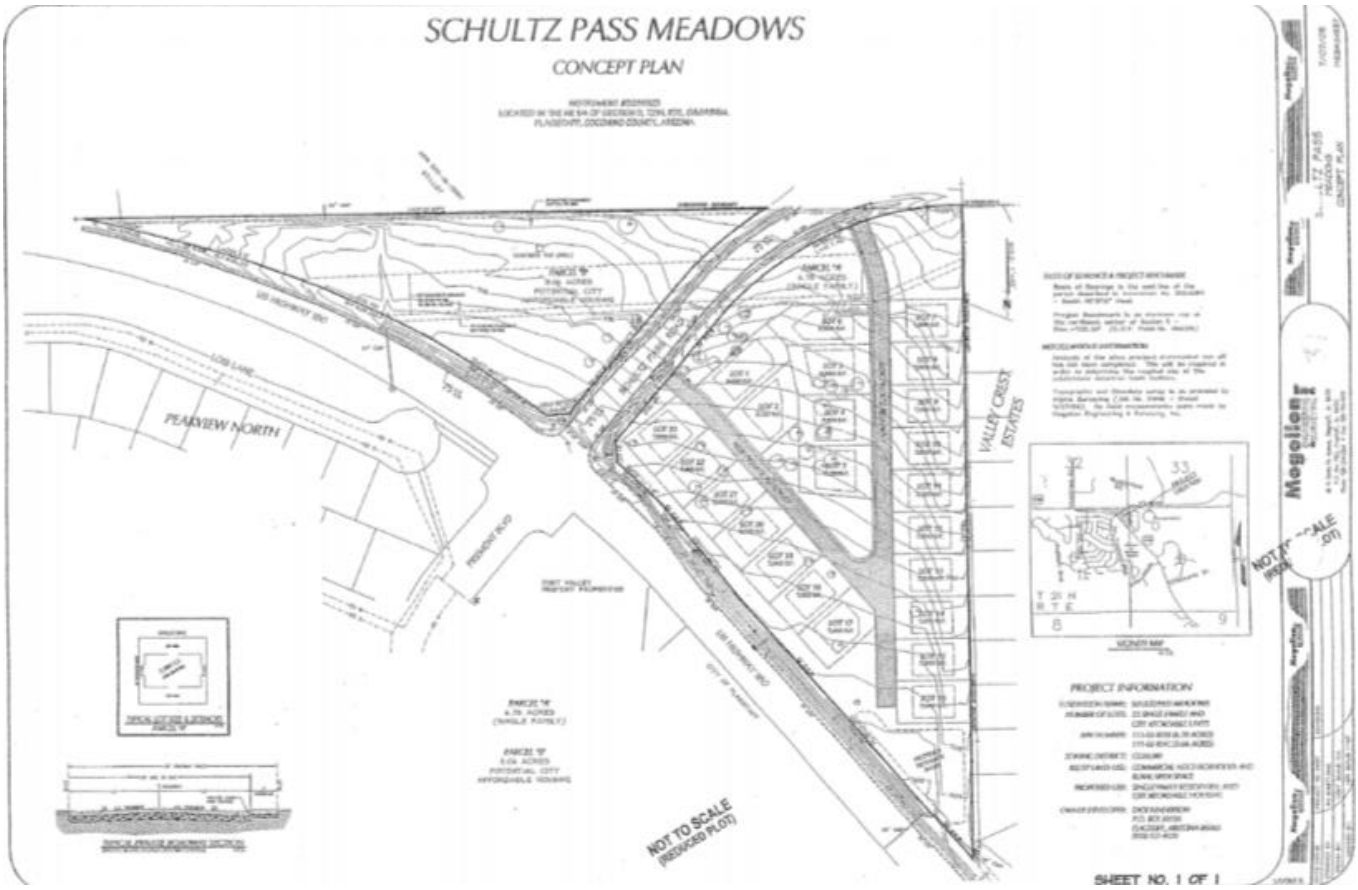

Photo Credit: City of Flagstaff

Summer 2017 – Citizen's Petition Submitted and Schultz Pass Property Removed from RFP

On Wednesday July 5, 2017 a citizen's petition was submitted to the City Manager's Office requesting consideration of Council action to designate the Schultz Pass Property as Open Space (Cit. Pet. #2017-03). According to the City's Charter, a citizen's petition must be acted upon within 31 days of submission and at the Council's next regular meeting; however, the Council was set to break for the summer after that day's council meeting and would not resume until August 15 which would be 41 days later. At the City Council meeting held that day public comment was submitted in favor and in opposition of development at the Schultz Parcel. Because of this conflict, Council held a special session on Friday July 7, 2017 at the Coconino County Board of Supervisors Chambers to discuss a Future Agenda Item Request (F.A.I.R.) regarding the citizens' petition. Two councilmembers agreed to move this item to a future agenda to be heard at the August 15, 2017 Council Meeting.

During this special session, Council also discussed possible properties to be included in the Affordable Housing Request for Proposals. During Council discussion, several councilmembers noted a concern that a request for affordable housing proposals would not be successful if they did not give clear direction. There was also concern that if they waited and attempted a RFP which included the Schultz parcel, it might fail and thus all other parcels included in the RFP would fail along with it resulting in no affordable housing developments. The Mayor also expressed fear that

the decision to pull the property from the request for proposals sets a negative precedent for the future of affordable housing. Ultimately, only six of seven councilmembers voted on the issue and the initial vote was a 3-3 tie because councilwoman Eva Putzova left the meeting during a break before public comment began. Mayor Coral Evans was initially in favor of including the parcel, but after much discussion changed her vote to break the tie. This would allow the other parcels in the request to move forward for affordable housing purposes, while still allowing Council the opportunity to hear a citizen's petition on designating the Schultz Pass Parcel for open space in August, when they returned from their summer break. Council directed staff to remove the Schultz Pass parcel from the request for proposals to create affordable housing and the request for proposals moved ahead with other pieces of City-owned property. [7] [8]

Summer 2017 – Open Space Petition Declined

In August of 2017, the Flagstaff City Council chose to not move forward with a citizen's petition proposing the rezone of the Shultz Pass property to open space. Members of the Facebook group "Flagstaff for Schultz Pass Open Space" had gathered 247 signatures for the citizen's petition and filed it with the City Manager's Office. In addition to the paper petition that was submitted to the City, the group also circulated an online petition that received about 2,100 signatures, which included signatures from around the country and the world. Because these signatures were not from citizens in Flagstaff, they could not be used to file the citizen's petition but were instead presented to Council to show public support for the matter. The group explained they were attempting a "win-win solution" for both affordable housing and open space advocates. They stated they had been fundraising over the summer for Housing Solutions of Northern Arizona and would propose a solution that included a way for the City to recoup the lost funding spent on the site's development. Councilmember Barotz suggested that the group create a ballot initiative instead of asking the Council to rezone the land as open space; a ballot initiative, if passed, could only be overturned by the voters, while a rezoning by the sitting council could simply be reversed by a future council. Members of the Facebook group indicated that they would begin the process of creating a ballot initiative to ask votes to designate the Shults Pass property as open space.[9] [10]

Spring 2019 - Summer 2020 – Open Space Ballot Initiative

In March of 2019, debate on the Schultz Pass property continued. Community members interested in seeing the Schultz Pass Parcel designated as open space formed a political action committee called Save Schultz Meadow. The Save Schultz Meadow group began gathering the 4,091 signatures needed to ask voters if the land should be permanently designated as open space on the November 2020 ballot.[11]

However, in the summer of 2020, the Save Schultz Meadow group sent a statement to the Arizona Daily Sun and created a social media post[12] announcing that it would hold off on submitting signatures to the City of Flagstaff at this time, due to COVID-19 contagion concerns. The group collected about 4,500 signatures, almost 400 more than required, but want to ensure they have extra signatures in case any are rejected during the screening process. During the screening process to approve an initiative for ballot, signatures can be excluded out for various legitimacy reasons, such as someone writing a fake name or being an unregistered voter within the City. The

Save Schultz Meadow Group stated that its plan is to wait until they can collect signatures safely again after the election to enable confidence that question will get on the ballot.

According to the Flagstaff City Clerk, the group can wait to submit their signatures and preserve the signatures they have already collected. Once submitted, the group's ballot initiative could be placed on the next ballot in 2022, unless the Flagstaff City Council calls for a special election on the subject. In the meantime, however, there is nothing preventing either the current of future city council from moving forward with development of the property.[13]

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[1] <https://azdailysun.com/news/local/affordable-housing-with-a-view-stirring-controversy-in-flagstaff/article_176fbfdd-2619-5284-8d1d-797b96613325.html>

[2] https://www.flagstaff.az.gov/DocumentCenter/View/51789/CCR---Overview-of-Schultz-Pass-Meadows-AH-parcel-and-specific-QA?bidId=

[3] *Ibid.*

[4] https://www.flagstaff.az.gov/DocumentCenter/View/51789/CCR---Overview-of-Schultz-Pass-Meadows-AH-parcel-and-specific-QA?bidId=

[5] https://www.flagstaff.az.gov/DocumentCenter/View/51789/CCR---Overview-of-Schultz-Pass-Meadows-AH-parcel-and-specific-QA?bidId=

[6] *Ibid.*

[7] http://cityweb.flagstaffaz.gov/agendaquick/agenda_publish.cfm?id=0&mt=ALL&get_month=7&get_year=2017&dsp=min&seq=601

[8] http://cityweb.flagstaffaz.gov/agendaquick/agenda_publish.cfm?disp_minutes=604&disp_minutes_ln=5837&id=0&form_type=MINUTES&beg_meetmth=7&beg_meetyr=2017&end_meetmth=8&end_meetyr=2017&mt=ALL&sstr=schultz&dept=ALL&hartkeywords=&sortby=f.form_num,%20f.rev_num&fp=ADVSRCH&StartRow=1#ReturnTo5837

[9] <https://azdailysun.com/news/local/flagstaff-council-declines-schultz-pass-open-space-petition/article_f92d9bfc-9fe7-5a5a-a43a-db8e8adeb69c.html>

[10] https://azdailysun.com/news/local/flagstaff-council-declines-schultz-pass-open-space-petition/article_f92d9bfc-9fe7-5a5a-a43a-db8e8adeb69c.html

[11] From <https://azdailysun.com/news/open-space-initiative-sprouts-as-schultz-pass-affordable-housing-sees-new-possibilities/article_b910e166-7d37-5f76-b8dc-42d6eb5e01fa.html>

[12] https://www.facebook.com/SaveSchultzMeadow/posts/636946130505431?__tn__=K-R

[13] https://azdailysun.com/news/local/voters-wont-see-save-schultz-meadow-on-november-ballot/article_c377803c-adea-5020-b64f-f48f6427f996.html

Flagstaff's Minimum Wage

Stakeholders, Actions & Outcomes

Photo Credit: Arizona Daily Sun

Minimum wage has become a topic of special interest for Flagstaff voters and residents in recent years and has sparked much debate and discussion. It represents a complex issue that involves multiple stakeholders, including Flagstaff voters, employees, business owners, the City Council, citizen interest groups, and the state legislature. In addition to these stakeholders, other trends also impact the minimum wage, such as general economic health and trends, sales tax, affordable housing, and workforce development, among other things.

This case study provides an overview Flagstaff's minimum wage by reviewing the timeline of relevant events and contextualizing the actions and reactions of the various stakeholders involved.

Timeline of Flagstaff Minimum Wage Events

Fall 2016 – Passage of Flagstaff's Proposition 414 and Arizona's Proposition 206

In November of 2016, 53% of Flagstaff voters supported Proposition 414 – Initiative for a Living Wage.[1] Prop 414 mandated an incremental increase in the minimum wage paid to employees conducting work within Flagstaff city limits, with wages increasing to $15.00/ hour by 2021 and ultimately indexing the minimum wage to changes within the Consumer Price Index in 2022.[2] Additional details on Prop 414 can be found on the City's Minimum Wage website.

While Flagstaff voters weighed in on a local minimum wage in November 2016, Arizona voters were also asked to vote on Proposition 206 in the same election period. Prop 206, which incrementally increases the minimum wage in the entire state of Arizona to $12 by 2020, was approved by 58% of Arizona voters. This is important to consider because Flagstaff's Prop 414 includes language that makes Flagstaff's minimum wage dependent upon the state of Arizona's minimum wage. A detailed overview of the minimum wage in both the state of Arizona and in Flagstaff is given below.

Date	State of Arizona/ Prop 206[3]	Prop 414[4]	Prop 414 Application
01/01/16	$8.05	N/A	$8.05
07/01/17	$10	$10 (or $2 above state)	$12
01/01/18	$10.50	$11 (or $2 above state)	$12.50
01/01/19	$11	$12 (or $2 above state)	$13
01/01/20	$12	$13 (or $2 above state)	$14
01/01/21	Adjusted for COL*	$15 (or $2 above state)	$15
01/01/22	Adjusted for COL*	Adjusted for COL*	Adjusted for COL*

*Cost of Living

On November 28, 2016, the City Clerk proclaimed Proposition 414 into law and the Flagstaff City Charter and City Code Chapter 15-01 adopted Initiative Ordinance 2016-01.[5]

Winter 2017 – City Council Receives Stakeholder Input

Flagstaff's minimum wage was $8.05 per hour in 2016. Under Prop 414, the mandated minimum wage was scheduled to increase to $12 on July 1, 2017, giving employers approximately nine months to prepare for a 49% increase in the minimum wage. This change sparked many reactions among stakeholders and after the passage of Prop 414 and its enactment into law, three key citizens groups emerged.

1. Fighting to repeal Prop 414 and replace it initially with the state minimum wage, the group Elevate Flagstaff was comprised of local business owners, residents and non-profit organizations who felt that local businesses and nonprofits would not be able to handle the mandated wage increases without negative consequents, such as laying off employees, limiting their hours or increasing prices for goods and services.[6] This group collected signatures for an initiative campaign to repeal Prop 414 and its $15 minimum wage.
2. The group behind the original Prop 414, Flagstaff Needs a Raise, continued to defend the legislation and fought against any changes.[7] The group also filed a lawsuit against Elevate

Flagstaff, claiming that problems with the signatures collected by the group should bar their initiative from appearing on the ballot.[8] This lawsuit was eventually dismissed.[9]

3. Bridging Flagstaff, a new citizens group, was also created to represent a compromise between the two sides. This group asked Council to amend Prop 414 to slow down the scheduled wage changes, add an inflation cap, and add language to mandate paid sick time for workers.[10]

In addition to these groups, individuals and organizations within the community also voiced their opinions of the new minimum wage. The City Council heard from minimum wage earners who were in favor of the increase, as well as local small businesses who both did and did not support the new minimum wage. Organizations providing services to individuals with developmental disabilities were united in their concern over Prop 414's higher minimum wage**,** with the leaders of Quality Connections and the Hozhoni Foundation noting that such organizations are not able to cut staff as they have to comply to mandated staffing levels and also will not see an increase in the reimbursements they receive from the state. They noted that it may also make it harder for people with disabilities to obtain employment at a higher minimum wage or cause disability service providers to move out of Flagstaff. [11] [12] Lastly, it is important to note that the services provided by these organizations are mandated by the Arizona Revised Statutes, Title 36, Chapter 5.1.

At a public meeting in February 2017, the Flagstaff City Council was tasked with deciding whether to hold a special election in May to let Flagstaff voters decided on the citizen initiative to repeal the $15 minimum wage (created by Elevate Flagstaff). Noting the price tag of such an election (approximately $156,000), historically low voter turnout for off-year elections, and the possibility of setting a precedent of holding special elections to overturn voter-approved initiatives, the Council voted 5-2 to not hold the special election. This decision, in turn, automatically placed the Elevate Flagstaff initiative on the November 2018 ballot.[13] Council also directed staff to bring back a proposed legal amendment to the current law.

Spring 2017 – City Council Passes Ordinance 2017-08

After voting against the special election and automatically placing Elevate Flagstaff's citizen initiative on the November 2018 ballot, the Flagstaff City Council considered its ability to further the existing minimum wage legislation. The Voter Protection Act allows a City Council in Arizona to amend a citizen's initiative only to further its original intent and this amendment must be approved by a supermajority of the City Council (in Flagstaff's case, 6 out of 7 Councilmembers).[14] [15] Accordingly, in March of 2017, a supermajority of the Flagstaff City Council adopted Ordinance 2017-08 which established a more gradual minimum wage increase but furthered the purposes of the voter approved initiative by increasing the mandated 2022 minimum wage by 50 cents. The table below details the minimum wage mandated by Ordinance 2017-08.

Effective Date	State of Arizona/ Prop 206[16]	Prop 414[17]	Prop 414 Application	Ordinance 2017-08[18]
01/01/16	$8.05	N/A	$8.05	n/a
07/01/17	$10	$10*	$12	$10.50
01/01/18	$10.50	$11*	$12.50	$11

01/01/19	$11	$12*	$13	$12
01/01/20	$12	$13*	$14	$13
01/01/21	Adjusted for COL**	$15*	$15	$15*
01/01/22	Adjusted for COL**	Adjusted for COL**	Adjusted for COL**	$15.50*

*or $2 above state wage **Cost of Living

Spring 2017 – Office of Labor Standards Opens

Prop 414, in addition to raising the City's minimum wage, also gives the City the authority to enforce compliance with the new minimum wage rules, including establishing a civil administrative hearing process, investigating any possible violations by employers, and requiring employers at fault to pay their employees any wages owed, including interest and penalties.[19] In response to this, the City created the Office of Labor Standards, which is tasked with administrating and ensuring compliance with the law by investigating complaints and violations of the Flagstaff's minimum wage law. The Office of Labor Standards is also tasked with providing educational, technical and awareness services, as well as engaging in community and business partnerships.[20]

Fall 2017 – Proposition 418 Fails

In November of 2018, a citizen's initiation to repeal Flagstaff's new minimum wage appeared on the ballot. The Elevate Flagstaff citizen's initiative, called Proposition 418 – Initiative for Sustainable Wages Act, sought to tie the City's minimum wage increase schedule to the state of Arizona's, with the requirement that the City's minimum wage remain 50 cents above that of the State's starting in 2021.[21] Prop 418 ultimately failed, with only 44% voter approval.[22] The failure of Prop 418 meant that Flagstaff's minimum wage remains as mandated under Ordinance 2017-08. The table below details the minimum wage proposed by Prop 418.

Date	State Prop 206[23]	Prop 414[24]	Prop 414 Application	Ordinance 2017-08[25]	Prop 418 (Failed)[26]
01/01/16	$8.05	N/A	$8.05	n/a	n/a
07/01/17	$10	$10*	$12	$10.50	$10
01/01/18	$10.50	$11*	$12.50	$11	$10.50
01/01/19	$11	$12*	$13	$12	$11
01/01/20	$12	$13*	$14	$13	$12
01/01/21	Adjusted for COL**	$15*	$15	$15*	$0.50 above State min. wage
01/01/22	Adjusted for COL**	Adjusted for COL**	Adjusted for COL**	$15.50*	$0.50 above State min. wage

*Cost of Living

Spring 2019 – State Passes HB2756

On May 31, 2019, Arizona Governor Ducey signed into law HB2756, a bill that requires each state department to submit an estimate of their expenses attributable to a city's established minimum wage if it exceeds the minimum wage established by the state of Arizona. Currently and at the time of the bill's passing, Flagstaff is the only locality within Arizona that mandates a higher

minimum wage than the State. After estimates are received, the state legislature is required to approve the final assessed amount to be charged to the City of Flagstaff.[27]

Fall 2019 – IGA Signed between AZ Dept. of Economic Security & City of Flagstaff

As part of the Arizona General Appropriations Act of 2019-2020 (HB 2747), the state of Arizona allocated funding to allow the AZ Department of Economic Security to spend $2 for each $1 that the city of Flagstaff provides as a voluntary payment to developmental disabilities service providers that experience the highest mandated labor cost increases for services provided within Flagstaff city limits.[28] In response to this, the City of Flagstaff signed an Intergovernmental Agreement with the AZ Department of Economic Security (DES) in November of 2018 in which the City provided DES with up to $150,000 in voluntary funding to qualified developmental disability service providers within the Flagstaff city limits. This voluntary funding was provided in direct response to the increased labor costs experienced by developmental disability service providers as a result of the passage of Prop 414 and Pop 206.

Fall 2019 – City Commissions Study on Flagstaff Minimum Wage

In August of 2019, the City of Flagstaff published a request for proposals to procure an outside contractor to conduct a study on Flagstaff's minimum wage. The purpose of this study was to establish baseline data on the impact of Flagstaff's minimum wage on both employees and employers, as well as to create a toolkit of best practices for businesses to use in adjusting to higher labor costs. The City's RPF process resulted in a consultant being hired to conduct the study. Several months after the study began, a Flagstaff citizens group raised concerns over the selected consultant. The consultant eventually terminated the project contract before completion, citing defamatory remarks and submitted to the City a draft PowerPoint of the findings. That PowerPoint can be accessed on the City's website. One key observation made by the consultant includes the need to take into consideration cost of living data and other key economic variables when setting a minimum wage. For example, a minimum wage of $15 in San Francisco, where the cost of living is among the highest in the nation, will have different economic impacts than a $15 minimum wage in Flagstaff, where the cost of living is comparatively lower. The consultant also noted that raising the minimum wage may have an impact on the ability of households to qualify for state and federal benefits such as the Supplemental Nutrition Assistance Program (SNAP), especially when state and federal income eligibility guidelines do not change.

Winter 2020 – State Assessment Received

In February of 2020, City of Flagstaff received a draft estimate from the state indicating what the City would be responsible for paying to Arizona state agencies pursuant to HB2756. For fiscal year 2020, two state agencies reported additional costs of $671,500 due to Flagstaff's minimum wage and in fiscal year 2021, seven state agencies estimated combined costs of $1,172,289. Due to the Arizona State Legislature ending its session early in 2020 over COVID-19 concerns, no assessment figure has been included in the State's fiscal year 2021 budget and it is unclear what the State will assess the City of Flagstaff in its upcoming budget. However, with the City minimum wage set to rise again on Jan 1. 2021 to $15.00, the next assessment will be greater than last year's estimate.

Looking ahead, Flagstaff will continue to follow Ordinance 2017-08 to set its local minimum wage, while future minimum wage trends will continue to be shaped by Flagstaff voters, general economic trends, and the Arizona state legislature.

[1] https://azdailysun.com/news/local/govt-and-politics/elections/flagstaff-minimum-wage-hike-passes-as-do-and/article_6d23d2bf-47b1-53d9-9da6-19d951521791.html
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[3] https://www.azica.gov/sites/default/files/media/FREQUENTLY%20ASKED%20QUESTIONS_MasterwTOC%20FINAL%20020518.pdf
[4] ibid
[5] https://www.flagstaff.az.gov/DocumentCenter/View/59937/Flagstaff-MW-FAQs--01-01-19
[6] https://azdailysun.com/news/local/signature-drive-launched-to-replace-flagstaff-minimum-wage-with-state/article_161de4e6-a51c-5774-a615-a54ce2fc2696.html
[7] ibid.
[8] https://azdailysun.com/business/local/lawsuit-filed-to-stop-elevate-flagstaff-petition/article_d9d2a6a1-a131-599f-8b5a-39eb9f92940b.html
[9] https://azdailysun.com/news/ballot-challenge-to-flagstaff-minimum-wage-to-proceed/article_859c25fc-84be-51ee-8a45-0ffe3873cf2e.html
[10] https://azdailysun.com/news/local/govt-and-politics/nonprofits-bridging-flagstaff-plead-with-council-over-wage-law/article_cf4669f3-2f77-5424-8ca2-f9150802d43e.html
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[16] https://www.azica.gov/sites/default/files/media/FREQUENTLY%20ASKED%20QUESTIONS_MasterwTOC%20FINAL%20020518.pdf
[17] https://www.flagstaff.az.gov/DocumentCenter/View/49946/Pages-from-PPFINAL09192016F-I-N-A-LEnglish-Only?bidId=
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[19] ibid.
[20] https://www.flagstaff.az.gov/3520/Minimum-Wage
[21] [21] https://azdailysun.com/news/ballot-challenge-to-flagstaff-minimum-wage-to-proceed/article_859c25fc-84be-51ee-8a45-0ffe3873cf2e.html
[22] https://www.coconino.az.gov/DocumentCenter/View/25762/2018-Final-Results?bidId=
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[26] https://www.flagstaff.az.gov/DocumentCenter/View/58870/PP2018FINALENGLISH
[27] https://www.azleg.gov/legtext/54leg/1R/laws/0272.pdf
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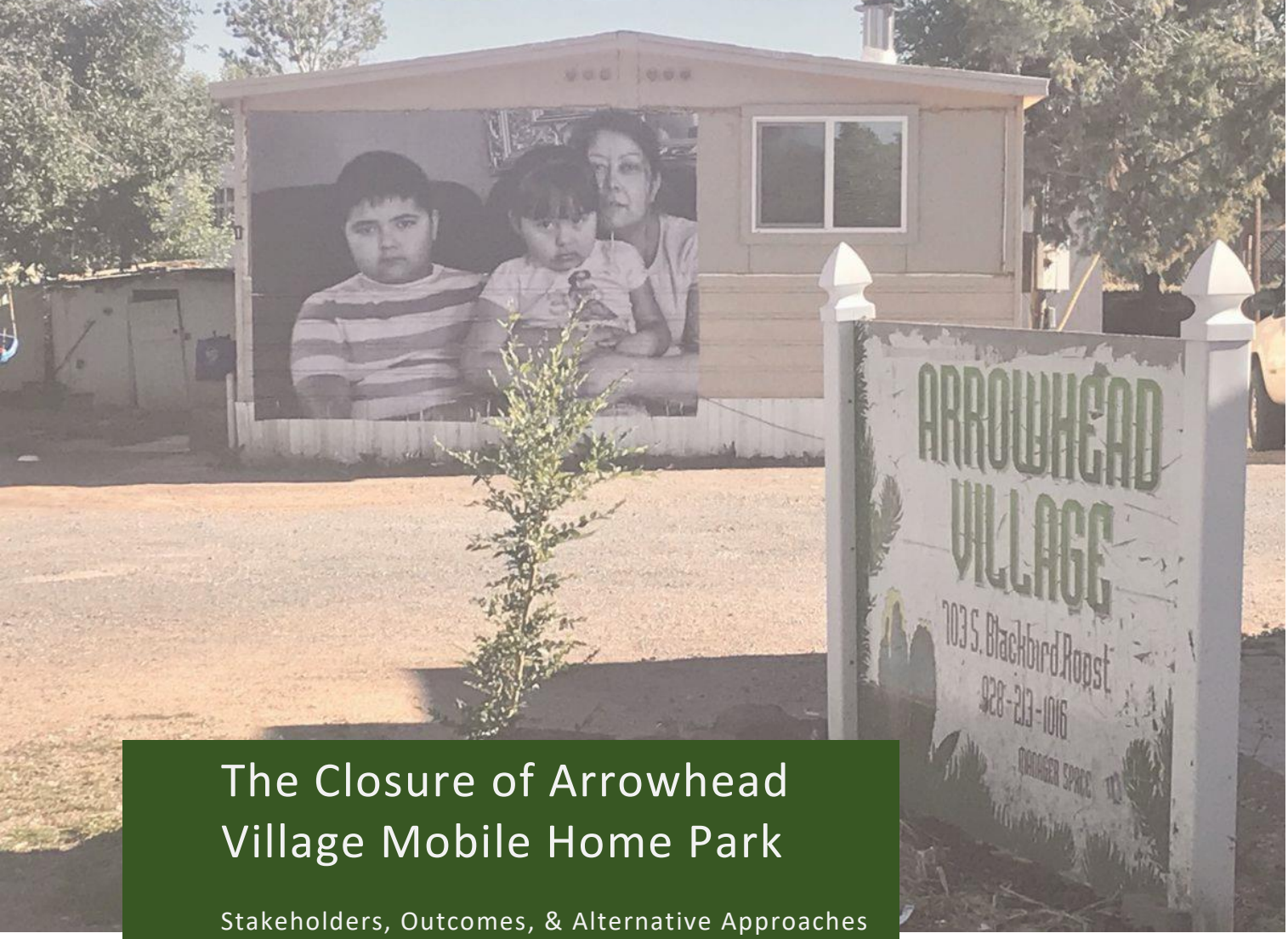

The Closure of Arrowhead Village Mobile Home Park

Stakeholders, Outcomes, & Alternative Approaches

Photo Credit: Arizona Daily Sun

In November of 2017, residents of the Arrowhead Village Mobile Home Park received an eviction notice alerting them that the land their homes sit on had been sold and that they had six months to move or abandon their homes. The sale of the land meant that over fifty families would be required to relocate.[1]

The displacement of the residents at Arrowhead Village brought to light a clear predicament that tenants of mobile homes parks encounter when faced with eviction. Although they own their mobile or manufactured home, they do not own the land it is located on, and accordingly have limited options when faced with eviction. This displacement can upend entire communities and cause severe emotional and financial stress for residents with few options to keep or relocate their homes.

This case study will introduce the circumstances surrounding the closure of the Arrowhead Village Mobile Home Park and explore what role residents, community activists, the City of Flagstaff, and City Council played during the event to learn what can be done in the future to avoid further displacements.

Background

The Arrowhead Village Mobile Home Park was located in La Plaza Vieja Neighborhood of Flagstaff, also known as “Old Town”. This is the oldest settled neighborhood in Flagstaff, settled in the 1850’s, due to its proximity to a freshwater spring. In the 1880’s the neighborhood was the site of ten buildings, a water source, and post office. It was also the location of lumber companies and workers’ housing that housed primarily Hispanic & Basque families who came to Flagstaff as a result of the sheep trade. The City of Flagstaff recommended the district become its own neighborhood as part of the Southside proposal in the late 1990’s.

Today, La Plaza Vieja is comprised of approximately 109 acres with 572 housing units, some of the oldest in Flagstaff, that house roughly 1,072 people. La Plaza Vieja faces the challenges of older housing stock, many without owner-occupants to care for them, along with an aging infrastructure and rising land costs, which make infill and redevelopment challenging. Census information also reports that a number of units do not have kitchen or bathroom facilities. The median household income (for a family of four) is $31,549, which is lower than the rest of Flagstaff. The low average income could be attributed to a combination of retired older-generation residents and a high percentage of Northern Arizona University students. La Plaza Vieja has a higher percentage of Hispanic residents than Flagstaff as a whole. Within the Hispanic community, there is a mix of families that are new to Flagstaff who were drawn to the neighborhood for affordability, location, and cultural similarities, as well as families that have lived in the neighborhood for generations. Often, in the latter group, multiple generations occupy the same residence. The overall population is young, with over 50% of the population under 24, which could also be attributed by Northern Arizona University students that rent in the neighborhood. The neighborhood is characterized by a high renter occupied housing (79%) and low owner-occupied ratio (14%). According to the City of Flagstaff’s sales tax records, there are fifty-two businesses within Plaza Vieja, with a walking tour revealing twenty-three businesses within the neighborhood, plus a number of rental agencies. Other businesses could very well be home-based businesses, or businesses that no longer exist.[2]

Arrowhead Village residents faced a previous eviction attempt in 2013 when Landmark Properties, the developer of The Standard student housing complex, expressed interest in purchasing the land to develop an apartment complex. This purchase would have required the rezoning of the property from manufactured home to commercial or industrial use. During negotiations with the residents, a representative for Arrowhead Village asked for $35,000 for each residence, which developers rejected as "extortion." City staff responded by citing state law that pre-empted municipalities from requiring higher relocation payments, and instead offered to recommend building more apartments in exchange for voluntary higher payments from the residents that would count as affordable housing investments. Arrowhead Village neighbors petitioned against the rezoning, regardless of the increased payments. Under city law, rezoning requires a super-majority vote of the council for approval, which Landmark Properties did not receive. As a result, Landmark withdrew their rezoning request, dropped the Arrowhead Village parcel from its development plans, and chose to construct along West Route 66 instead, where formal rezoning was not needed.[3] The issue would arise again in 2017.

Housing-Related Preemption

Preemption is a legal doctrine that allows a higher level of government to limit or eliminate the power of a lower level of government to regulate a specific issue. It has historically been used as a legislative and judicial tool to resolve problems that can arise when different levels of government adopt conflicting laws on the same subject. Under the Supremacy Clause of the United States Constitution, federal law takes precedence over state and local law. Similarly, state law takes precedence over the laws of a local jurisdiction because cities are "creatures of the state".[4]

Housing preemption in Arizona essentially creates a relationship between landlords and tenants that is private and cannot be interfered with by local governments. Such preemption can be seen under Titles 9, 33, and 41 of the Arizona Revised Statutes. Under Arizona State law, there are two Residential Landlord and Tenant Acts; one that pertains to standard rental housing and the other to renters in Mobile Home Parks. The Arizona Department of Housing enforces several areas of the Mobile Home Landlord/ Tenant Act, including overseeing the park closure required actions and the mobile home relocation fund (provided for in the Act). [5] [6] [7]

Arizona has also taken a punitive approach to all local laws subject to state preemption. Arizona's extensive preemption law (Arizona Statutes § 41-194.01) enacted in March 2016 through SB 1487, imposes steep monetary consequences for local governments that pass ordinances found to be in violation of state law and has effectively prevented local initiative in the state.[8]

Land Zoning

When Arrowhead Village residents faced eviction in November 2017, residents were incorrectly notified about the zoning status of the land parcel that Arrowhead Village sat on. Residents were notified that the land was being sold in order to build a commercial property, while the land in question was and remains to be zoned for manufactured home use. To notify Arrowhead Village tenants of this intent was inaccurate and misleading as the property owner would need to obtain a conditional use permit or zoning change to build a commercial endeavor on the property.[9]

Response

After residents first faced eviction in 2013, The La Plaza Vieja Neighborhood Specific Plan was unanimously adopted by Flagstaff City Council on October 20, 2015, with an effective date of November 19, 2015. The plan underwent a series of reviews by City of Flagstaff Commissions and Advisory Committees and was recommended by approval by the Planning and Zoning Commission, the Historic Preservation Commission, the Transportation Commission, and the Bicycle and Pedestrian Advisory Committees. The Parks and Recreation Commission also reviewed and supported the plan but did not make a formal motion. The Neighborhood Plan includes a site and area analysis, concept plan, recommended goals and policies, and implementation strategies. Throughout the plan, a goal of creating more affordable housing in the area is frequently noted.[10]

After the 2017 eviction notice was received, various actors became involved in the issue, including the residents of Arrowhead Village, community organizers, City of Flagstaff staff, Flagstaff City Council, and

local non-profit and civil society organizations. A summary of the actions taken by different community actors can be found in both city council minutes from this time and a December 2018 City Council Report (CCR) provided by leadership from City's Community Development department.[11]

Flagstaff City Council and Staff

During the Council budget retreat in April 2018, a discussion was held to consider decreasing the contingency fund balance by half of one percent to provide an ongoing funding source for emergency housing relocation assistance. The goal of this ongoing program would be to leverage other funding opportunities to provide relocation assistance. In the end, this option was set aside, resulting in Council budgeting $100,000 in one-time general funds for households being displaced from the closure of mobile home parks. Staff was directed to work with the existing programs of Flagstaff Shelter Services and Coconino County Community Services as an interim measure to expedite assistance to residents pending displacement from the closure of Arrowhead Village. There was an initial $20,000 of funding directed to Arrowhead Village, with stated flexibility to allocate more should there be a need. In addition to Arrowhead Village, staff was directed to create a relocation assistance program with the remaining funds allocated for this purpose.[12]

Other Organizations

Various other local, regional and state organizations responded to the need of Arrowhead Village residents. Four community meetings and three outreach meetings were hosted by Flagstaff Shelter Services and Coconino County Community Services with City staff support, while Front Door via Flagstaff Shelter Services provided a specialist to triage each household. Monetary or in-kind contributions were also received by multiple organizations; the United Way of Northern Arizona contributed $2,500 for professional interpretation and printing services, Flagstaff Shelter Services contributed $26,500 for rehousing and other funding to support 12 households, the AZ Department of Housing leveraged $22,500 in abandonment funds for 20 households and Coconino County assisted 9 families with $12,225 in funds.[13] A total of thirty-five Arrowhead households received Relocation Assistance Support via Flagstaff Shelter Services and Coconino County and fourteen with City funding.[14]

Community Organizers

Chip Thomas, a local artist, created a wheat paste mural on the side of one of the homes which depicted three of the evicted residents. The artwork was unveiled on June 24th, 2019 at a reveal fundraiser hosted by the Repeal Coalition. Through a GoFundMe Campaign, Chip Thomas and the Repeal Coalition helped raise $4,440 for Arrowhead Village residents.[15] A search of City Council and County Board of Supervisor minutes from the time also shows that community organizers and residents were active in their advocacy efforts by repeatedly bringing their comments and concerns to elected officials through these public forums.

Residents of Arrowhead Village

Park residents made multiple attempts at securing financial compensation in exchange for the hardship represented by the eviction notice. Residents worked with attorney Lee Philips, who provided services at no cost, to request rent reimbursement and the return of security deposits from the property buyers;

both requests were denied.[16] Residents also organized an enchilada sale to raise funds for relocation costs. A total sum of $2,385 was raised and split among the residents.[17]

Outcome

Despite efforts from the residents, City Council, city staff, and local community organizers, all of the Arrowhead Village residents were ultimately displaced. Only six families were able to take their homes with them, while the remaining homes were abandoned due to associated moving expenses or the age of the homes, as restrictions exist related to moving any mobile home built before 1976. Eight families from Arrowhead Village were able to move into mobile homes located within the Hidden Hollow Manufactured Home Community, while other families moved in with family or friends or left the Flagstaff area altogether. The Arrowhead Village parcel was sold for $2.25 million dollars in 2017 but is now back on the market for a list price of $6 million. The parcel is still zoned to allow only manufactured homes and the listing agent for the property, who was unaware of its history, noted "I'm selling it zoned mobile home, so I hope someone will buy it and maintain it as a mobile home park". [18] [19]

The Flagstaff City Council has since refused to rezone the parcel and discussion has been raised to condemn the property for affordable housing purposes. On July 3, 2018, Mayor Evans requested a Future Agenda Item Request (F.A.I.R.) to determine if there were any other members of Council interested in placing the topic of condemnation on the agenda. At that time, two Councilmembers agreed to move it forward and four agreed to move it to the front of the line of Discussion Queue.[20] The topic was raised again on August 28, 2018[21] and on January 8, 2019. At the January 2019 meeting, Mayor Evans stated that the area has very limited affordable housing available and according to State statutes, the City can condemn the property for the purpose of affordable housing. Council received public comment concerning condemnation of the property with public opinion being mixed. Mayor Evans asked Council to consider moving the item forward for future discussion, and a Council majority supported of moving the item forward for further discussion.[22] The parcel remains un-condemned and undeveloped at the time of writing this study.

Alternative Models

Research into mobile home communities reveals that once land is sold, mobile homeowners face limited options. In recent years, alternative models that allow for the preservation of mobile home parks as affordable housing have emerged. Several examples are listed below.

Resident land ownership of communities:

- Some mobile home communities, such as ones in Washington and Rhode Island, have formed co-ops where they purchase the land from the landlord. Residents pay a membership fee and monthly dues to become a part of the co-op instead of paying monthly rent to a landlord which grants them longer term security and stability.[23]
- In Washington state there is a nonprofit called Manufactured Home Community Preservationists (MHCP) which use a combination of bank and public finding to buy parks, currently five across the state, at below-market rates to ensure tenant rates are set low and based on income. This is a collaborative approach in which a board of directors runs the nonprofit and one elected

resident from each mobile home community joins the board. Homeowners are responsible for their own utilities, personal property taxes, insurance and maintenance, and the board creates bylaws and rules.[24]

Community stabilization & resiliency planning:

- Housing Trust Funds: Washington Housing Trust Fund, managed by the state's commerce department, has helped preserve over a dozen mobile park homes since 1993. The Fund awards funding for affordable housing projects, federal home loans, and has approximately $996 million in active investments. The Housing Trust Fund awards money in the form of grants and loans, with an interest rate ranging from 0 to 3 percent. Organizations that receive an award must remain affordable for 40 to 50 years.[25]
- Resiliency Planning Grant: Affordable housing advocates say that the best way to preserve mobile home parks is to turn them into co-operatives owned by residents as mentioned previously. In Boulder, Colorado however, land is so valuable, and parks are so expensive to upgrade that it wouldn't be possible for low-income residents to finance the purchase alone. The City of Boulder, Colorado responded to this community need through the creation of a grant which allow the city to contribute some funding to the resident purchase of the park.[26]

Anti-Displacement Task Forces and Record Keeping:

- In 2018, the city council of Austin, Texas passed a resolution, Resolution No. 20170817-053, to prevent displacement in their area through a task force. The purpose of this task force is to preserve and expand the supply of affordable housing by controlling land for community development, preserve and grow small businesses and cultural assets, create income and assets by providing needed services (such as, childcare, transportation, a basic retail sector, access to health care, and employment opportunities), and financing strategies to provide community-specific ways to fund the other four categories of action. The task force committed to a ten-month process that culminated in recommendations for future displacement prevention.[27] [28]
- The City Council of San José, California adopted a Housing Crisis Response Workplan on June 12, 2018, which directed the Housing Department to develop a Citywide Anti-Displacement Strategy. That same year, a team of public and private representatives was selected to participate in PolicyLink's 10-city All-in Cities Anti-Displacement Policy Network (ADPN), a national peer learning cohort studying best practice tools and strategies to address displacement. In 2019, the San José ADPN team organized a series of stakeholder and public meetings and on January 15, 2020, released the Community Strategy to End Displacement. The report was written collaboratively by the San José ADPN team and provides a set of 13 recommendations to produce new affordable housing, preserve existing affordable housing, and protect residents in the city's rapidly changing neighborhoods. It was published in English, Spanish, and Vietnamese.[29]
- In San Antonio, Texas a community advocacy group, Vecinos de Mission Trails, was formed after the City voted to rezone Mission Trails Mobile Home Community and forcibly removed almost 300 residents from their home. Vecinos de Mission Trail works to provide support to the displaced residents of Mission Trails, fully document the history and impacts of their displacement, complete research, and education efforts on the root causes of gentrification

and its policy alternatives, and engage existing Mission Reach residents vulnerable to future displacement. Vecinos de Mission Trails completed two years of research including interviews and data analysis to produce a 104-page report on what happened in the area. Vecinos de Mission Trails has since worked to develop a mutual aid group called the Comités de Defensa del Barrio. In addition to fighting future displacements, the long-term purpose of this group is to understand and reclaim human rights on a neighborhood level, and to create alternative economies based on cooperation and mutual aid.[30]

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[7] https://housing.az.gov/manufactured-housing/az-mobile-home-landlord-tenant-act-information-relocation-fund

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[16] https://azdailysun.com/news/at-arrowhead-village-the-families-are-gone-with-most-leaving/article_56d3ce03-ec5b-51e8-94e6-b2cfe39af31f.html

[17] https://azdailysun.com/news/at-arrowhead-village-the-families-are-gone-with-most-leaving/article_56d3ce03-ec5b-51e8-94e6-b2cfe39af31f.html

[18] https://azdailysun.com/news/at-arrowhead-village-the-families-are-gone-with-most-leaving/article_56d3ce03-ec5b-51e8-94e6-b2cfe39af31f.html

[19] https://azdailysun.com/news/local/arrowhead-village-eviction-delay-no-help-for-those-forced-to/article_63dbbaa2-77be-59a3-aba5-866281296b84.html

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