

**CONTRACT FOR SERVICES**

Contract No. 2023-68

This Contract is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 by and between the City of Flagstaff, a political subdivision of the State of Arizona (“City”), and Conservation Legacy, a Colorado nonprofit corporation (“Contractor”).

WHEREAS, the City has received grants from Arizona State Parks, Picture Canyon Trail Restoration Grant Project identified as: ASPT #: 472303, ADOT #: M472303P, Fed Aid #: RTP-F-101 for the Picture Canyon Trail Restoration (“Project”);

WHEREAS, the City desires to receive, and Contractor is able to provide services for the Project; and

NOW THEREFORE, in consideration for the mutual promises contained herein, the Parties agree:

- 1. Scope of Work: Contractor shall provide the services generally described as follows:

**RESTORATION, TRAIL REHABILITATION, AND TRAIL MAINTENANCE**

and as more specifically described in the Scope of Work attached hereto as Exhibit A.

- 2. Compensation: Contractor shall be compensated **an amount not to exceed one hundred forty-nine thousand eight hundred fifty dollars (\$149,850.00)** for work performed under the Scope of Work, attached hereto as Exhibit A, and defined below. Payment shall be compensation in full for all terms necessary to provide a complete Project with respect to each Bid item, purchase order, or amendment to the Project.

<b>Compensation</b>	<b>Source</b>
\$103,358.01	Grant Funds
\$20,691.99	City Funds
\$124,050.00	Subtotal Contract Expenditure
25,800.00	Contract In-Kind Labor
149,850.00	Total Contract Award for Services

- 3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as Exhibit B are hereby incorporated in this Contract by reference and shall apply to performance of this Contract, except to the extent modified in Exhibit A.
- 4. Insurance: Contractor shall meet Insurance Requirements of the City as set forth in Exhibit C. In the event that there is a conflict between the City’s Insurance Requirements and the Insurance Requirements defined in the Grant Provisions, the Grant Provisions prevail.
- 5. Grant Provisions: Contractor shall meet the Arizona State Parks, Picture Canyon Trail Restoration Grant Provisions of: ASPT #: 472303, ADOT #: M472303P, Fed Aid #: RTP-F-101 as set forth in Exhibit D.

6. Contract Term: The Contract term is for a period of three (3) years unless terminated pursuant to the Standard Terms and Conditions. This Contract will be effective as of the date signed by both parties. Performance shall commence within ten (10) days from City's issuance of the Notice to Proceed.
7. Renewal: This Contract may be renewed or extended for up to two (2) additional one (1) one-year terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.
8. Notice: Any formal notice required under this Contract shall be in writing and sent by certified mail and email as follows:

To the City:

Emily Markel  
Senior Procurement Specialist  
City of Flagstaff  
211 W. Aspen Ave.  
Flagstaff, AZ 86001  
[emarkel@flagstaffaz.gov](mailto:emarkel@flagstaffaz.gov)

With a copy to:

Robert Wallace  
Open Space Supervisor  
City of Flagstaff  
211 W. Aspen Ave.  
Flagstaff, Arizona 86001  
[Robert.Wallace@flagstaffaz.gov](mailto:Robert.Wallace@flagstaffaz.gov)

To Contractor:

Kamillia Hoban  
Arizona Conservation Corps Director  
Conservation Legacy  
2500 N. Rose St., Ste101  
Flagstaff, AZ 86004  
[khoben@conservationlegacy.org](mailto:khoben@conservationlegacy.org)

With a copy to:

Stacey Brechler-Knaggs  
Grants, Contracts & Emergency  
Management Director  
City of Flagstaff  
211 W. Aspen Ave.  
Flagstaff, Arizona 86001  
[sknaggs@flagstaffaz.gov](mailto:sknaggs@flagstaffaz.gov)

***(Remainder of Page Intentionally Blank)***

9. Authority: Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

Conservation Legacy:

\_\_\_\_\_

Print name: \_\_\_\_\_

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

CITY OF FLAGSTAFF

\_\_\_\_\_

Print name: \_\_\_\_\_

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

Attest:

\_\_\_\_\_

City Clerk

Approved as to form:

\_\_\_\_\_

City Attorney's Office

## EXHIBIT A

### **SCOPE OF WORK Restoration, Trail Rehabilitation, and Trail Maintenance.**

**Project Description:** An extensive system of unauthorized roads and trails was mapped and photographed throughout the Preserve. These abandoned roads and unauthorized routes are identified for restoration. Coupled with restoration, trail repairs and signage installation are identified for completion.

Project objectives include:

#### **Scope Item #1 Renovation & Maintenance of Existing Trails**

Partner Match Required: \$10,000

- Compaction of .5 miles of Tom Moody Trail. The contractor will provide labor, compactor, and cohesive soil mix suitable for compaction.
- Trail tread repairs. Labor to complete tread repairs, fix and install trail drainage for .78 miles of trail.
- Re-route .08 miles of existing trail segments of the Tom Moody/Don Weaver trails.
- Place cinders for resurfacing low laying/flow damaged trail areas, ~.75 miles x 4' wide. The contractor will supply cinders for resurfacing repairs.

#### **Scope item #2 Mitigate and restore damage to areas surrounding trails**

Partner Match Required \$13,000

- Mitigate and restore damage to areas surrounding trails through naturalizing closed roads/unauthorized trails, including seedbed preparation with ripping .61 miles of old roadbeds/unauthorized trails, broadcast seeding and erosion control for 4.27 miles or 45,000 sq ft of impacted areas, hydroseeding for .52 acres (.61 mi of road x 7'wide), and installation of erosion control netting for 46,000 sq ft. The client will provide erosion control netting and seed mix for broadcast seeding.

#### **Scope item #3 Installation of regulation, boundary, archaeological site, and trail signs**

Partner Match Required \$1,063

- The contractor will provide labor, posts, and concrete to install enforcement signs. The client will provide signs.
  - Install 6 12x12" No Motorized Vehicles, (post-installation).
  - Install 25 4x6" Protected Conservation Land signs, (attach to existing infrastructure)

#### **Scope item #4 Install Other Trail Signs**

Partner Match Required \$1,737

- The contractor will provide labor to install trail signs, posts, sign framing material, welding labor, and needed concrete mix. The client will provide signs.
  - 4 12x12 Protected Cultural Site, (post installation)
  - 10 4x6 Cultural Sites, (construct self-supported posts in low profile to the ground surface to prevent visual impacts)
  - 1 12x6 Trail Directional, (post installation)
  - 1 5'x3' Picture Canyon wayfinding sign. (install using channel posts that have a breakaway feature).

- 33 12x4 ground-level restoration signs. (No groundbreaking, mount on ground level board/log).
- 1 interpretive sign installation (post installation)
- 5 kiosk grate additions (welding required)

All Project work needs to be completed within the guidelines of the Arizona State Parks Regional Trails Program Grant criteria and the identified scope areas. Project numbers: ASPT #: 472303, ADOT #: M472303P, Fed Aid #: RTP-F-101. Total Partner match required equals \$25,800. The grant-approved budget for this scope work is \$103,358.01.

The Contractor will be required to create two invoices, one invoice for grant-funded work and a second for partner-provided match.

**City of Flagstaff Open Space Program**  
**Picture Canyon Restoration Specifications**

**Project Description Area**

This Project encompasses site rehabilitation and reseeding with native vegetation for the Picture Canyon Natural and Cultural Preserve’s Recreational Trails Program Project (Grant Agreement No. ASPT#: 472303).

**Introduction**

This Project encompasses many improvements to the Picture Canyon Natural and Cultural Preserve trail system. Primarily, the Preserve has a plethora of closed roads and unauthorized trails that dissect the property. These closed roads and trails cause confusion for visitors and are the source of soil erosion, vegetation loss, and damage to cultural sites. The Project’s focus will be the habitat restoration of closed roads and unauthorized routes, with a secondary focus on trail repairs and reroutes.

4.27 miles of closed roads and unauthorized trails will be addressed by blocking routes and conducting revegetation and stabilization. The contractor will evaluate conditions, block routes with vegetation and signage installations, prepare seedbeds, broadcast seed, and mulch seeding areas. Most work will be completed by hand except for larger closed roads, which will be ripped with a mechanical device (i.e., bulldozer or rototiller). Ripping is necessary to decompact soil to allow rootlets to penetrate, provide higher levels of oxygen available for plant establishment and growth, and reduce excessive runoff.

The Project also encompasses trail repairs, mitigating erosion, and rerouting two trail sections. The two reroute sections include a short trail near the Locus D petroglyph panel. Nearly all of the vegetation growing near the panel has been trampled, and the rock art panel is being graffitied. The second section includes a trail spur leading to Pithouse Overlook. This spur will be modified with switchbacks to reduce erosion damaging the terrain and cultural site and increase visitor safety.

During restoration efforts and trail maintenance, soil disturbance will be necessary. Restoration work will address the needs of approximately 46,000 square feet. Soil surface disturbance during restoration will consist of ripping soil to a depth of 6 to 12 inches. This will be accomplished by mechanical rototilling or disking for approximately .61 miles, and 3.67 miles will be completed by hand (i.e., pickaxe, shovels, rakes). The selected contractor needs familiarity with seedbed preparation and will complete the naturalization Projects during ideal timing to prevent additional disturbance.

### **Impact Prevention**

Protection of the Project site is an important aspect of site preparation and should occur at the beginning of the construction phase. Appropriate steps include:

- During Project implementation, ensure the exclusion of weed seed from entering the site on vehicles, infill, tools, personnel, etc. Vehicles and equipment must be power washed before entering the location after every departure from the Project area.
- Material and equipment must be stored at a weed-free staging area to prevent noxious weed seed migration. If on-site, this staging area will need to be restored.
- All material/soil brought on-site must be noxious weed-free.
- Avoid operating vehicles on wet soils.
- Notify the City immediately of any changes or plans that could affect City property, including the Open Space Program ([Robert.wallace@flagstaffaz.gov](mailto:Robert.wallace@flagstaffaz.gov)).

### **Site Preparation**

Evaluation of site conditions early in the planning process and appropriate site preparation are fundamental to successful revegetation. Site preparation for this Project will involve becoming familiar with the site to help ensure efforts are effective.

### **Seedbed Preparation**

Seedbed preparation is required before reseeding and generally consists of decompaction of the soil, adding soil amendment (if needed), and then gently firming the soil surface prior to seeding. Soil compaction is a common problem for revegetation. Seedbed preparation (tilling) is crucial before revegetating a site. Compaction can be found in naturally occurring soils with high clay content or can result from activity on the restoration area. When soil is compacted, seeds, plant roots, and rootlets cannot penetrate through the hard surface, and less oxygen is available for plant establishment and growth. Less water is available for plant establishment due to hard compacted soil surfaces, and the site may be vulnerable to excessive runoff due to less water penetration. Microorganisms may be inhibited due to both a lack of oxygen and the large pore space needed to survive.

Decompaction should occur in two steps, with special attention given to staging areas, roads, and other high-traffic areas that are severely compacted.

Step one: Soil should be ripped to a depth of 4 to 6 inches, leaving no clod over 3 inches in diameter. This can be accomplished by mechanical methods (disking, ripping, plowing, rototilling) only in designated areas, with all remaining soil preparation to be conducted by hand crews. On steeper slopes, other methods may need to be used to decompact soil to the proper depth. Slopes should only be ripped along the contour of the slope. The ground should be contoured to restore the site to approximately the original contour. Work shall not be done when the ground or topsoil is frozen or wet.

Step two: Once the final tilling is complete, gently firming of the seedbed soil should be performed prior to seeding if determined necessary by a vegetation specialist.

### **Plant Material Selection**

Appropriate plant selection is crucial in the successful revegetation of sites. A site plan will be created by the Open Space Program. Plant selection will be based on native plant growth in the Project area.

- All seed mixtures shall be certified free of noxious weeds and shall not contain any of the species listed on the most recent 2020 Arizona State Noxious Weed List.
- All seed substitutions must be requested and approved by the City of Flagstaff, Open Space Program in consultation with a revegetation specialist.

### **Seeding**

Once the soil has been decompacted, the seedbed has been adequately prepared, and the plant material has been selected, the site is ready for seed application. The timing of seeding is an important aspect of the revegetation process. The best times of year to seed for the Flagstaff area are just before the monsoon season (~ late June), or Fall (late October – early November). Fall is the preferred time for seeding. Late summer seedbed preparation followed by installation of the seed in the fall allows winter months for additional firming of the seedbed before spring and germination. Fall seeding benefits from winter and spring moisture and usually assures maximum soil moisture availability for establishment. Seeding should not be conducted if the soil is frozen, snow-covered, or wet (muddy).

Hydroseeding, a seeding method that uses a slurry of seed, wood fiber mulch, and water, has been demonstrated to be less effective if the seed is suspended in the solution for too long. Therefore, hydroseeding should only be used in areas that need more extensive coverage. This area has been estimated by the Open Space Program to be approximately .52 acres (.61 miles of road x 7' wide).

Broadcast seeding, which consists of spreading the seed onto the surface of the soil by hand or with a hand spreader (also known as a belly grinder) or a mechanized rotary or cyclone seeder, has been determined to be the most viable option for the Flagstaff area. Broadcast seeding is also typically necessary in areas that are inaccessible, such as rocky slopes and steeper terrain.

Broadcast seeding is best completed after the ground has been raked or harrowed. This preparation will allow for better seed/soil contact than a hard-packed surface. Broadcast seeding is less reliable than drill seeding, so it is necessary to increase the seeding rate to double or even triple the recommended rates. Seed should be raked in to a depth of ¼ to ½ inch depth. After seeding is complete, the seed should be raked or harrowed in to provide better seed to soil contact and to cover the seed with soil.

After the seed has germinated, it may be necessary to spot-seed areas that did not establish. Inaccessible small, steep, or soft seedbed areas may be broadcast seeded and harrowed or raked to cover the seed. In areas that pose challenges for revegetation, seeding rates can be up to 50 to 60 pounds per acre to assure faster establishment or to provide erosion protection.

The Open Space Program will provide a seed mix and a recommended lbs. PLS/acre.

### **Mulching**

Mulching is the practice of applying a protective layer of material onto the soil surface of individually planted trees and shrubs or a seeded area. Mulching can be achieved through straw or rolled erosion control product (RECP) installation. Applying mulch provides many benefits such as:

- Decreases germination of many weed seeds.
- Moderates soil temperatures.
- Retains soil moisture during dry weather (i.e., decrease evaporation).
- Increases infiltration.

- Decreases erosion.
- Adds organic matter to the soil.
- Protects soil from “crusting” caused by raindrops on bare soil.
- Reduces compaction caused by heavy rains.

The type of mulch shall meet one of the following requirements.

- a. Crimped straw: Straw mulch is the most widely used product because it is cost-effective, readily available, and conveniently packaged in bales. Straw mulch can be spread and crimped successfully on slopes of 4:1 or less. Steeper slopes require a different type of mulch. Straw is required to be certified free of noxious weeds or other objectionable material. Long straw is appropriate for straw mulching, but fragmented straw should be avoided. At least 50% of the straw mulch should be a minimum of 10 inches long for stability once crimped. The straw mulch can be applied by hand in small areas or by a chopper/spreader or blower in larger areas. A good rule of thumb when mulching over a seeded area is to mulch to a density where some soil is visible beneath the straw.

The disadvantage of straw mulch is that it is highly susceptible to blowing away, so it must be anchored or crimped. The straw should be crimped into the soil to a depth of 2 to 3 inches with a crimping tool. Disks and chisels should not be used to crimp because they will cut the straw, allowing it to blow free. Because hay includes the entire plant, including seed, mulching with hay with non-native grass species should be avoided. Alternatively, native grass species of hay may be purchased.

- b. Rolled erosion control products: Rolled Erosion Control Products (RECPs) include a variety of manufactured products designed to control erosion and enhance vegetation establishment and survivability, particularly on slopes and in channels. Products such as netting, open weave textiles, and a variety of erosion control blankets (ECBs) made of natural, biodegradable materials (e.g., straw, jute, coconut) can be used. Products must be certified free from noxious weeds or other objectionable material. All used products should be all-natural biodegradable, and safe for sensitive areas (no plastic components). Although RECPs can be expensive, they are often the best approach for facilitating revegetation on steep slopes (such as 3:1 or steeper). For purposes of revegetation, it is best to avoid thick straw or excelsior blankets because they can impede grass establishment. RECPs must be installed correctly to be effective, and installation must be completed according to manufacturer directions.

### **Post Seeding Monitoring**

To determine the success of the seeding, the contractor will provide photo documentation and a brief report for the seeded areas each year over the course of the Project, through May 2025. The report should contain:

- Photograph documentation (at least one photo/area)
- Identification of reseeded bare areas where grasses did not establish
- As needed, offer recommendations to the Open Space Program regarding additional needs for restoration

### **Post-Construction Assignments**

- Temporary sediment control will be left in place until vegetation infill is successful. Once native plant cover has been established, remove all non-natural stormwater control measures (i.e., rock trackout pad, sediment wattles, silt fence, etc.).

- Rake out tracks/signs of construction to reduce visibility at all points.
- Evaluate growth following the growing season after the seeding for the length of the Project.
- Provide an annual report of the findings to the City Open Space Program.

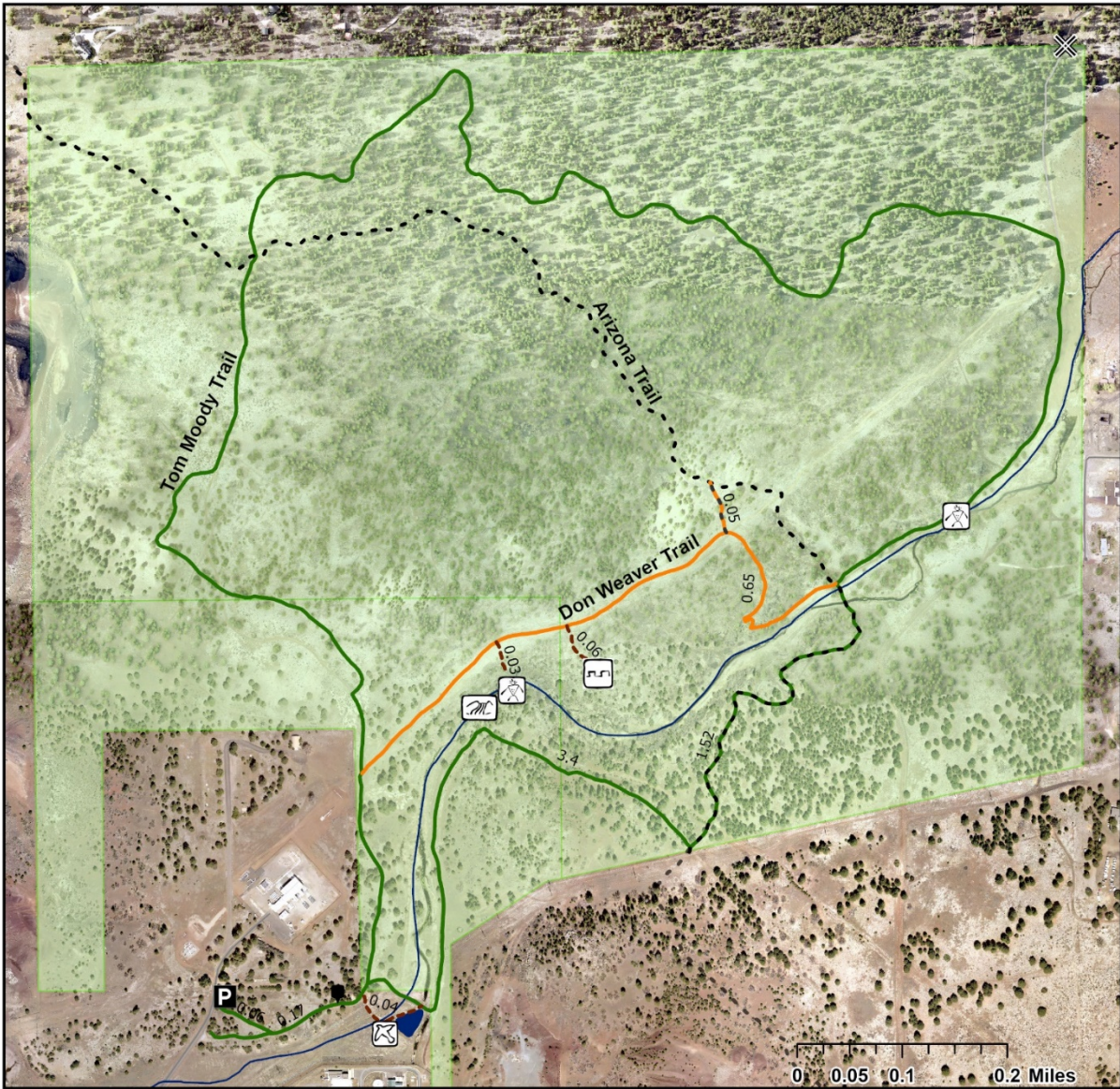
#### Supporting Material

Photographs of miscellaneous locations identified for restoration. See attached documents:

- AZT trail restoration photos
- Don Weaver trail restoration photos
- Tom Moody Trail Restoration photos

# Trails

## Picture Canyon Natural and Cultural Preserve



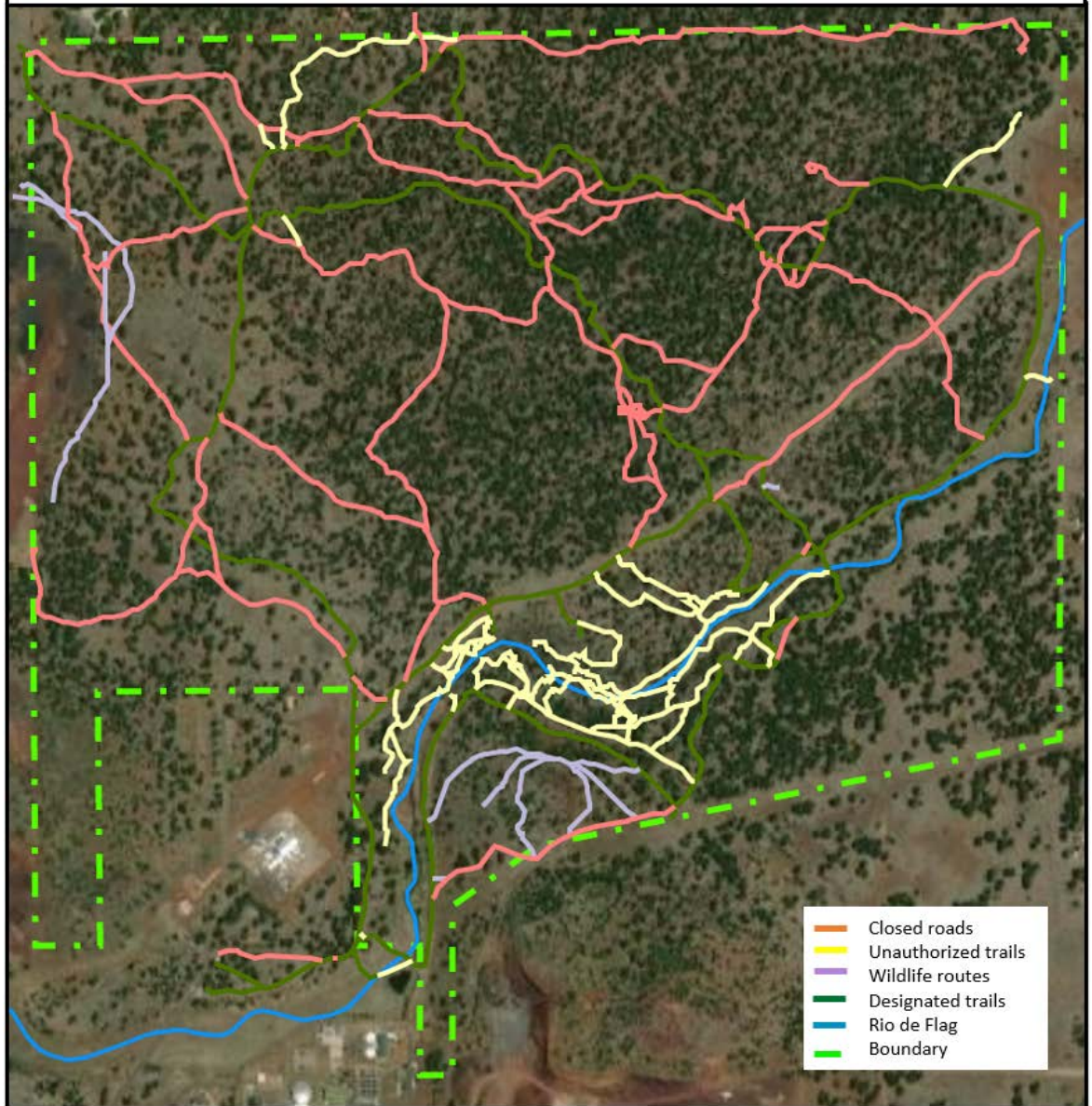
<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #90EE90; border: 1px solid black; margin-right: 5px;"></span> Picture Canyon Boundary</li> <li> Waterfall</li> <li> Gate - No Access</li> <li> Parking</li> <li> Petroglyphs</li> </ul>	<ul style="list-style-type: none"> <li> Pit House</li> <li> Watchable Wildlife Pond</li> <li> Welcome Sign</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FF8C00; border: 1px solid black; margin-right: 5px;"></span> Don Weaver Trail</li> <li><span style="display: inline-block; width: 15px; border-bottom: 1px dashed black; margin-right: 5px;"></span> Points of Interest Trails</li> </ul>	<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; border-bottom: 1px dashed orange; margin-right: 5px;"></span> To Arizona Trail / Don Weaver Trail</li> <li><span style="display: inline-block; width: 15px; border-bottom: 1px solid green; margin-right: 5px;"></span> Tom Moody Trail</li> <li><span style="display: inline-block; width: 15px; border-bottom: 1px dashed black; margin-right: 5px;"></span> Arizona Trail</li> <li><span style="display: inline-block; width: 15px; border-bottom: 1px solid blue; margin-right: 5px;"></span> Rio de Flag</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #0000FF; border: 1px solid black; margin-right: 5px;"></span> Pond</li> </ul>
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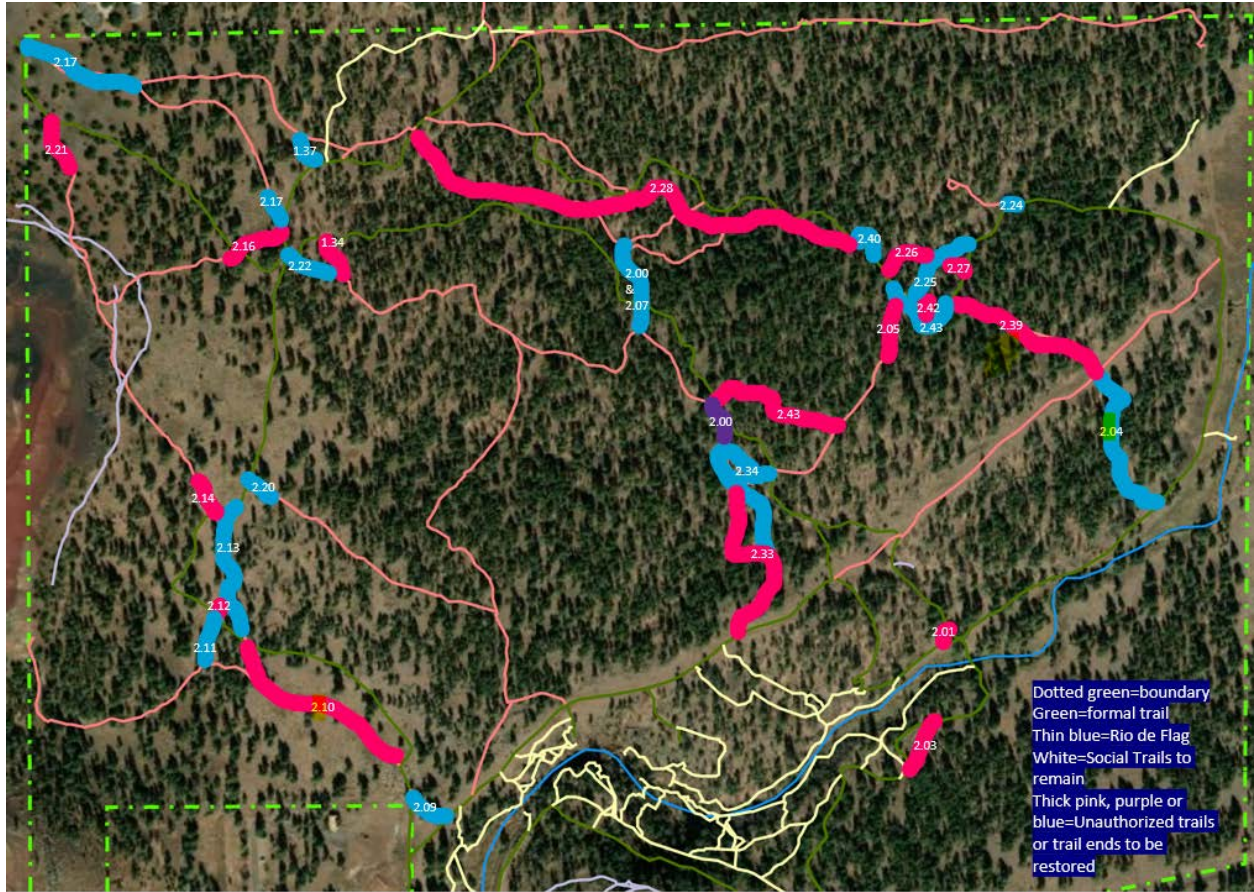
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\*All trail distance calculated in Miles

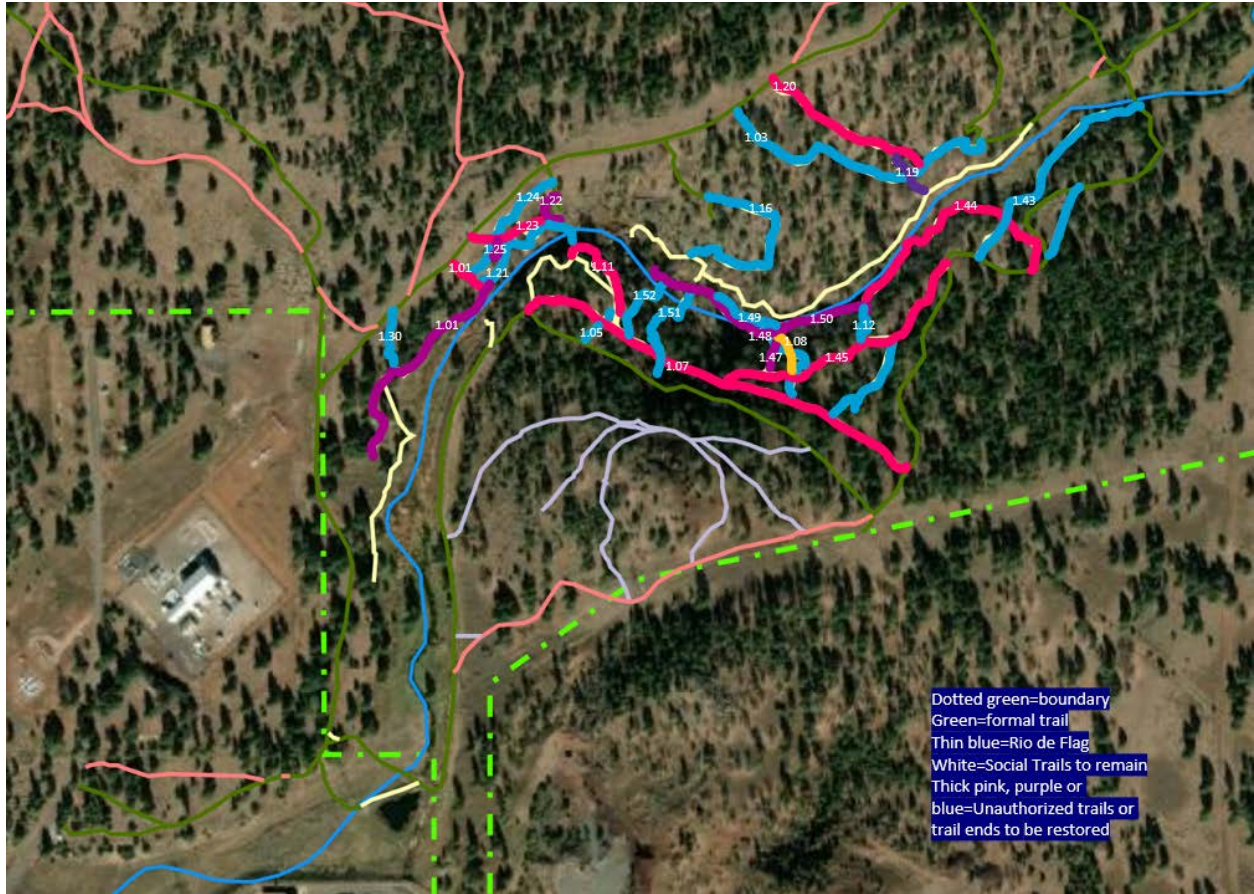
# Unauthorized Roads and Trails Assessment

Picture Canyon Natural and Cultural Preserve





Restoration Areas Map 1: Highlight trails identified for restoration



Restoration Areas Map 2: Highlight trails identified for restoration

**City of Flagstaff Open Space Program**  
**Picture Canyon Trail Maintenance Specifications**

**Project Description Area**

This Project encompasses site rehabilitation and reseedling with native vegetation for the Picture Canyon Natural and Cultural Preserve's Recreational Trails Program Project (Grant Agreement No. ASPT#: 472303).

**Location**

All Project work will occur in the City of Flagstaff, Picture Canyon Natural and Cultural Preserve Area, 3920 N El Paso Flagstaff Rd, Flagstaff, AZ 86004. Work will be completed at various locations throughout the Preserve.

**Project Activity**

This Project will focus on restoring the Picture Canyon Preserve trails listed below to a meet or exceeds status based on the listed standards. Trail maintenance will include a full range of trail maintenance activities. Most work will be completed with hand crews. This work consists of restoring the original trail template, including clearing, social trail blocking, removing slough and berm, filling ruts and troughs, reshaping backslopes, excavation, reshaping trail tread, restoring draining and other trail structures, and constructing berms.

1. The following trail systems require maintenance.
  - a. ~ 0.04 miles of the Don Weaver
  - b. Petroglyph Overlook Trail identified for repair
  - c. ~ 0.66 miles of the Tom Moody Trail miscellaneous locations identified for repair
2. The following trails will require rerouting/installation.
  - a. Reroute the Don Weaver, Pithouse Overlook ~ 0.06 miles
  - b. Reroute the Tom Moody, Waterbird Overlook ~ 0.02 miles.
3. Installing regulation, boundary, archaeological site, and route-finding trail signs will require installation.
  - a. Approximately 56 signs located throughout the Preserve.

Project work conditions will include arduous outdoor work located on varied terrain. Terrain may include steep slopes, boulders, rocks, and shrubs, creating difficult walking conditions on the ground. Crews will only drive on established road easement unless other permissions are granted. In many areas, it will be necessary for the crews to hike to the work site as appropriate. Hot or cold temperatures, rain, and mud may be encountered during the work period. Administrative road conditions may be primitive and difficult to travel. If road condition deteriorates due to wet weather, no vehicle access will be permitted, and the Project may be postponed until conditions improve.

The Contractor will administer and oversee implementation of all work and all actions of its personnel and subcontractors. The Contractor will be responsible for ensuring appropriate transport of its employees to and from work sites. In order to allow the City of Flagstaff to effectively respond to open space user and public comments about work ongoing in the Project area, the Contractor will ensure its personnel and/or subcontractors wear identifiable uniforms while working in areas open to the public. It is likely there will be City of Flagstaff personnel, volunteers, and/or partners working in/around this same area while the contractors are on-site.

Specific guidance for each element of the Trail Rehabilitation, Maintenance, and Repair work is as follows:

1. **Slough and Berm Removal and Excess Material.** Use suitable slough and berm material within the trailway to restore the trailbed to eighteen (18.00) inches in width. Place all unsuitable and excess material beyond the downslope edge of the trailbed and uniformly spread to a depth not exceeding four (4.00) inches and so as not to obstruct drainage or interfere with the drainage of outsloped tread. Remove berm when daylight can be obtained within a distance of five (5.00) feet from the outslope edge of finished tread.
2. **Rock and Root Removal.** Uniformly scatter the removed rocks and roots below the trailway and distribute to ensure no blockage of watercourses or creation of a windrow. Fill holes with suitable material and compact.
3. **Reshaping and Finishing Trailbed and Backslopes.** Provide a firm and uniformly finished trailbed in accordance with cross-sections that shed water.
4. **Clearing Limits.** Power saws will be permitted. Clear to the dimensions six (6.00) feet wide and ten (10.00) feet high or twelve (12.00) inches beyond the fill and backslope catch points, whichever is greater. Remove and dispose of trees, logs, limbs, branches, brush, herbaceous plants, and other vegetation within the clearing limits. Except as provided above, cut all limbs and branches more than one-half inch in diameter that extend into the clearing limits. Cut limbs flush with the tree trunks or stems or cut at the ground surface. Fall and limb designated trees. When felling, cutting, or trimming, do not cause bark damage to standing timber. Remove and dispose of trees with major roots exposed by construction that are rendered unstable. Cut and remove all logs that extend across or into the clearing limits. The portions of cut logs that remain on the upper side of the trail shall be either firmly anchored to prevent sliding or rolling onto the trailway or moved across the trail to the lower side and scattered outside the clearing limits. Fell all trees over four (4.00) inches in diameter that are leaning into the clearing limits and that are within ten (10.00) feet above the trailbed. Stump height of leaning trees that are cut outside the clearing limits shall not exceed twelve (12.00) inches as measured on the uphill side of the stump. Disposal and payment for the leaning trees described above will be the same as for down logs and trees. Remove roots and stumps from trees within the trailway that have been uprooted.
5. **Rerouting** the trail around windfalls, uprooted trees, and other obstacles will not be permitted. Ramp or reroute sections of the trail tread that have been damaged by uprooted stumps as necessary to provide safe passage on the trail. Remove sticks or wood chunks exceeding two (2.00) inches in diameter and twelve (12.00) inches in length that have fallen onto the trailbed. Scatter the down trees on the lower side of the trailway outside the clearing limits. Do not place such materials in stream channels drainage ways, ditches, culvert catch basins or other locations where they would prevent the free flow of water away from the trailbed.
7. **Climbing Turn Maintenance.** Maintenance of climbing turns, including excavation, furnishing, hauling, and placing rock and aggregate, compacting aggregate surfacing, and associated barriers, ditches, retaining walls, and approach sections to bring the climbing turn up to good condition.
8. **Drainage.** Restore drainage dips and ditches to reestablish drainage as removing obstructions such as rocks, roots, and sticks to make ditches and culverts free draining.

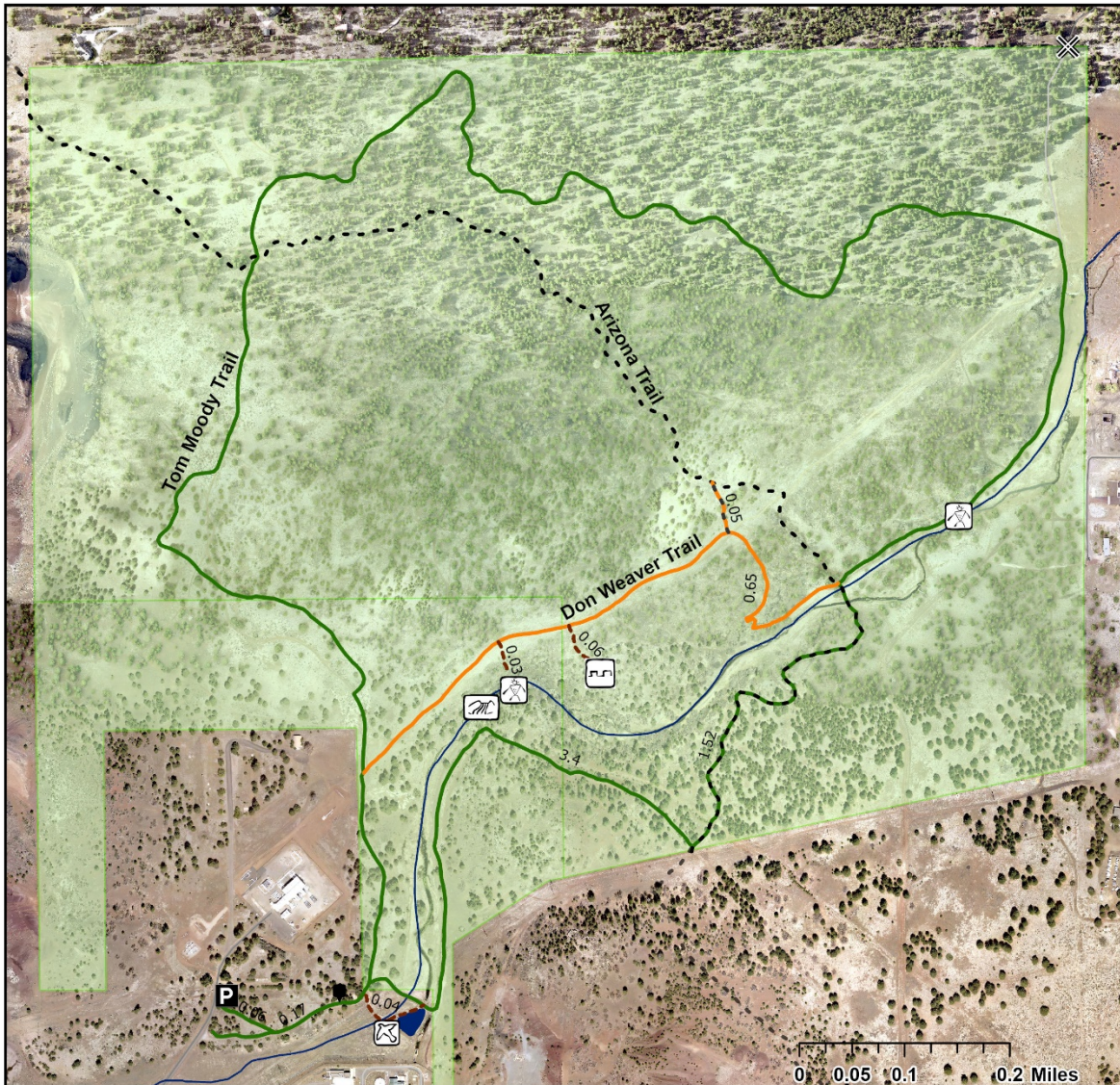
**10. Drainage Maintenance.** Where trail drainage facilities have been plugged and the water has been diverted from the intended channel, remove the debris causing the diversion and return the drainage to the channel. Divert water off and away from the trailbed. If washing or ponding of water has been or is occurring, dig a shallow ditch sloped two (2.00) percent to five (5.00) percent to the downstream side of the trail and three (3.00) inches minimum depth and twelve (12.00) inches minimum width across the trail at the point where water enters the trail. Clean ditches to permit the free flow of water into culverts and away from the trail. Scatter all unusable or unneeded material that is cleared from the drainage structures three (3.00) feet or more beyond and below the trail or drainage facility and out of water courses. Clean the upgrade side of all existing waterbars and maintain them. Use and compact suitable material removed from the upgrade side of all waterbars to bring the trail tread flush with the top of those waterbars on the downgrade side. Remove all debris from the lead-off area of all waterbars that restricts the free flow of water away from the trail. Firmly embed replacement rocks for rock waterbars into the trailbed and fit the rocks together.

**Supporting Material**

- Trail Photos Class Examples
- Don Weaver-Petroglyph Overlook re-routing photos
- Tom Moody Trail Repairs

# Trails

## Picture Canyon Natural and Cultural Preserve

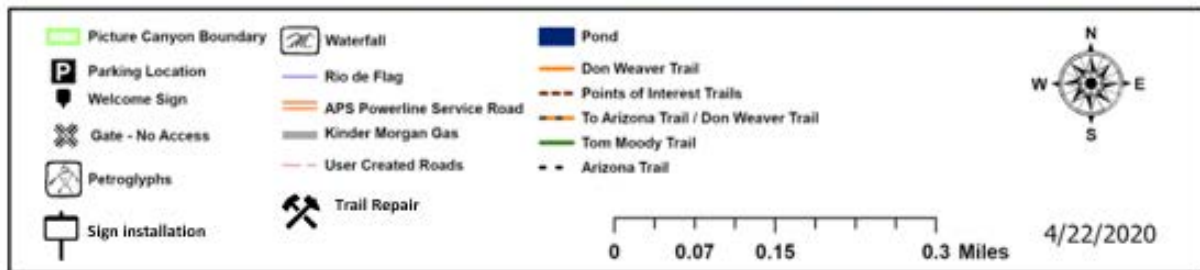
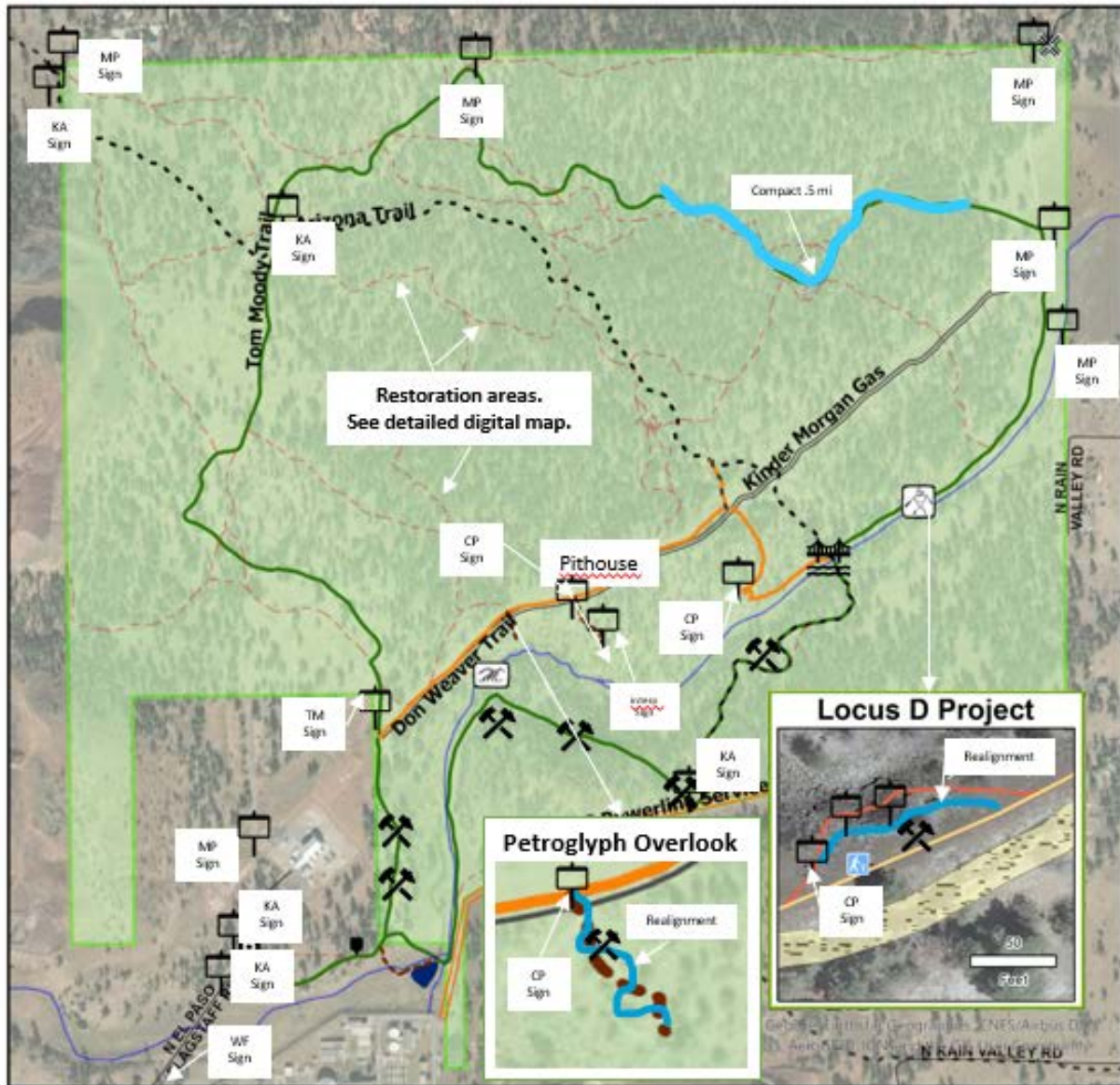


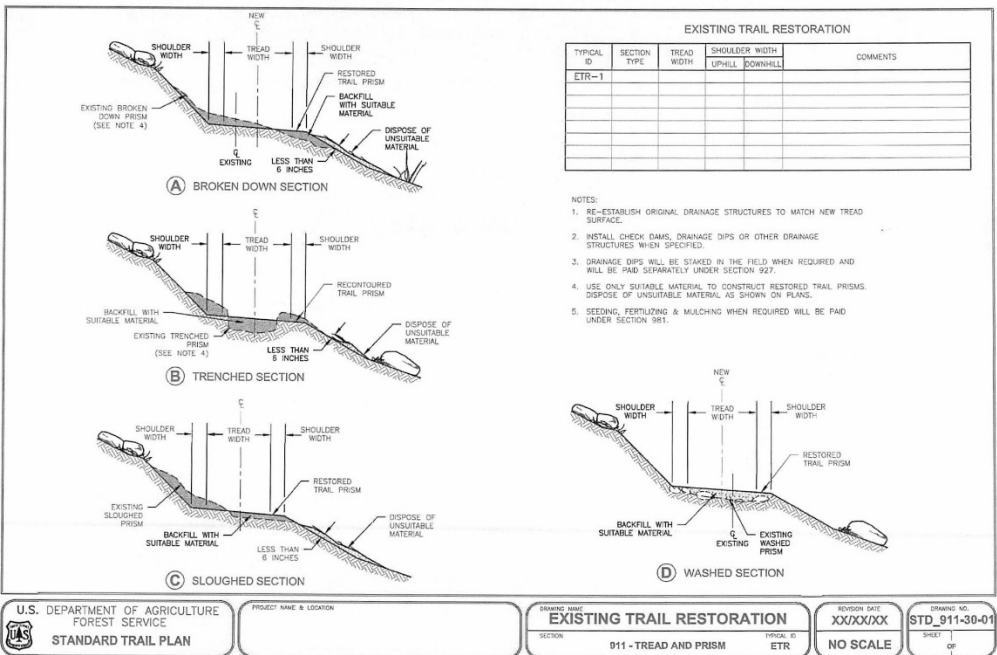
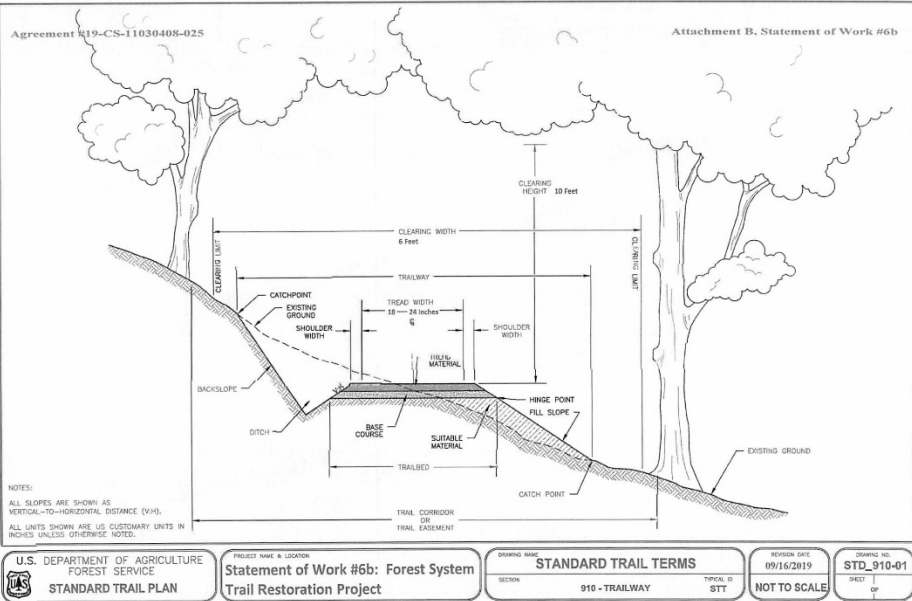
<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #90EE90; border: 1px solid black; margin-right: 5px;"></span> Picture Canyon Boundary</li> <li> Waterfall</li> <li> Gate - No Access</li> <li> Parking</li> <li> Petroglyphs</li> </ul>	<ul style="list-style-type: none"> <li> Pit House</li> <li> Watchable Wildlife Pond</li> <li> Welcome Sign</li> <li> Don Weaver Trail</li> <li> Points of Interest Trails</li> </ul>	<ul style="list-style-type: none"> <li> To Arizona Trail / Don Weaver Trail</li> <li> Tom Moody Trail</li> <li> Arizona Trail</li> <li> Rio de Flag</li> <li> Pond</li> </ul>
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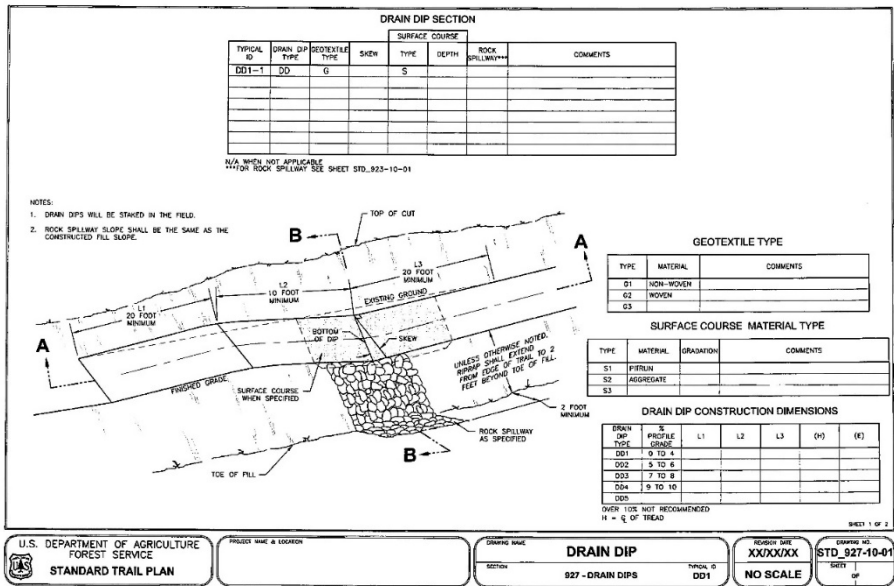
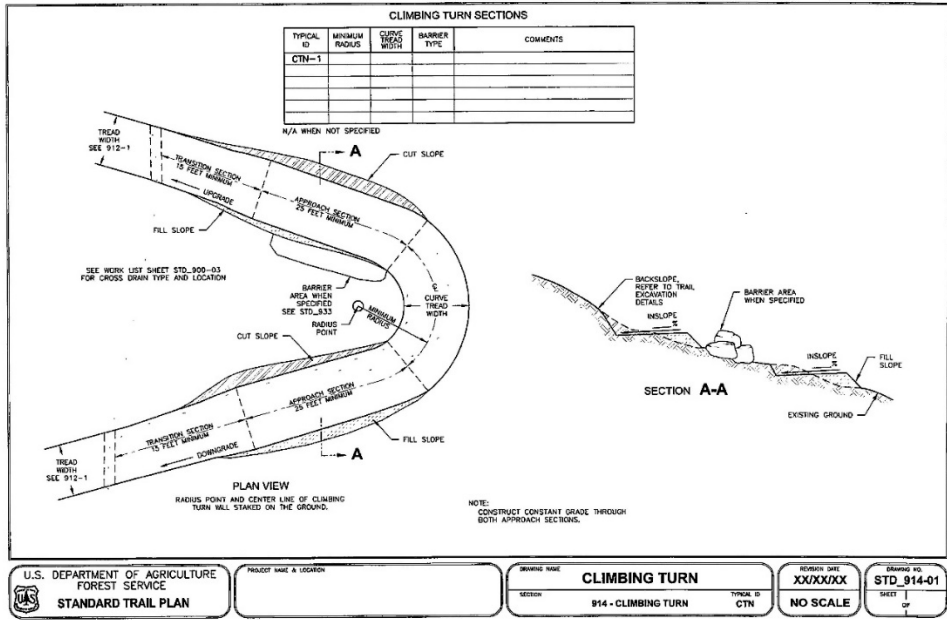
4/22/2020

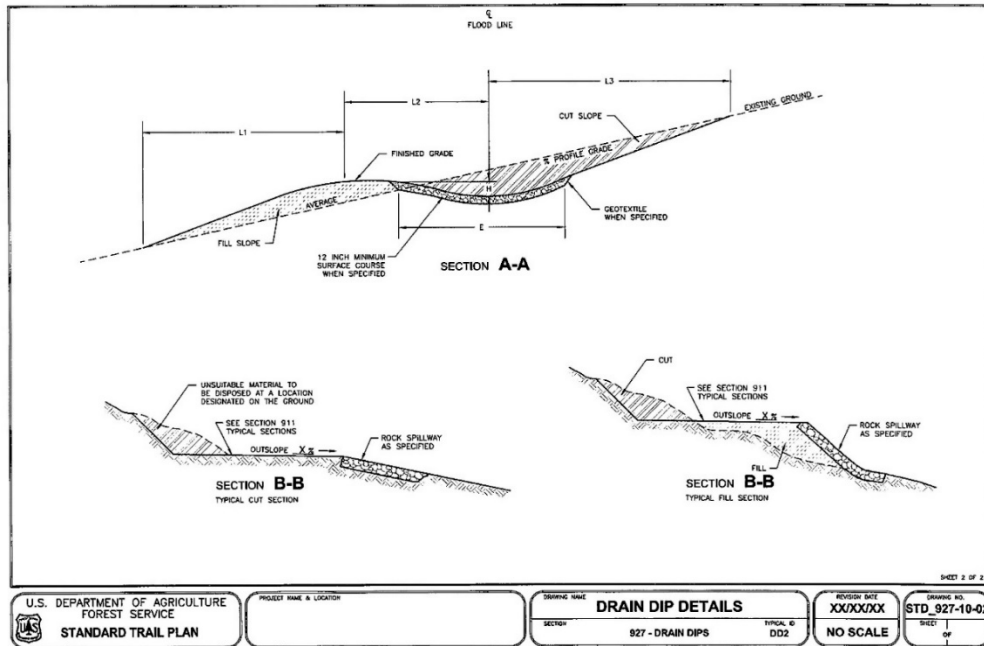
\*All trail distance calculated in Miles

# Site Plan Map – Picture Canyon Restoration & Repair









## Trail Class

Trail Classes are general categories reflecting trail development scale, arranged along a continuum. The Trail Class identified prescribes the development scale, representing its intended design and management standards. Local deviations from any Trail Class descriptor may be established based on trail-specific conditions, topography, or other factors, provided that the deviations do not undermine the general intent of the applicable Trail Class. Apply the Trail Class 3 for the management intent for the trail or trail segment, which may or may not reflect the current condition of the trail.

Trail Attributes	Trail Class 3 Developed
<b>Tread &amp; Traffic Flow</b>	Tread continuous and obvious Single lane, with allowances constructed for passing where required by traffic volumes in areas with no reasonable passing opportunities available Native or imported materials
<b>Obstacles</b>	Obstacles may be common, but not substantial or intended to provide challenge Vegetation cleared outside of trailway
<b>Constructed Features &amp; Trail Elements</b>	Structures may be common and substantial; constructed of imported or native materials Natural or constructed fords Bridges as needed for resource protection and appropriate access

<b>Signs</b>	Route identification signing at junctions and as needed for user reassurance Route markers as needed for user reassurance Regulatory and resource protection signing may be common Destination signing likely outside of wilderness; generally not present in wilderness Information and interpretive signs may be present outside of wilderness
<b>Typical Recreation Environments &amp; Experience</b>	Natural, primarily unmodified ROS: Typically Primitive to Roded Natural WROS: Typically Semi- Primitive to Transition

## Trail Design Parameters

### *Hiker/Pedestrian*

Design Parameters are technical guidelines for the survey, design, construction, maintenance, and assessment of trails, based on their Designed Use and Trail Class and consistent with their management intent. Local deviations from any Design Parameter may be established based on trail-specific conditions, topography, or other factors, provided that the deviations are consistent with the general intent of the applicable Trail Class 3.

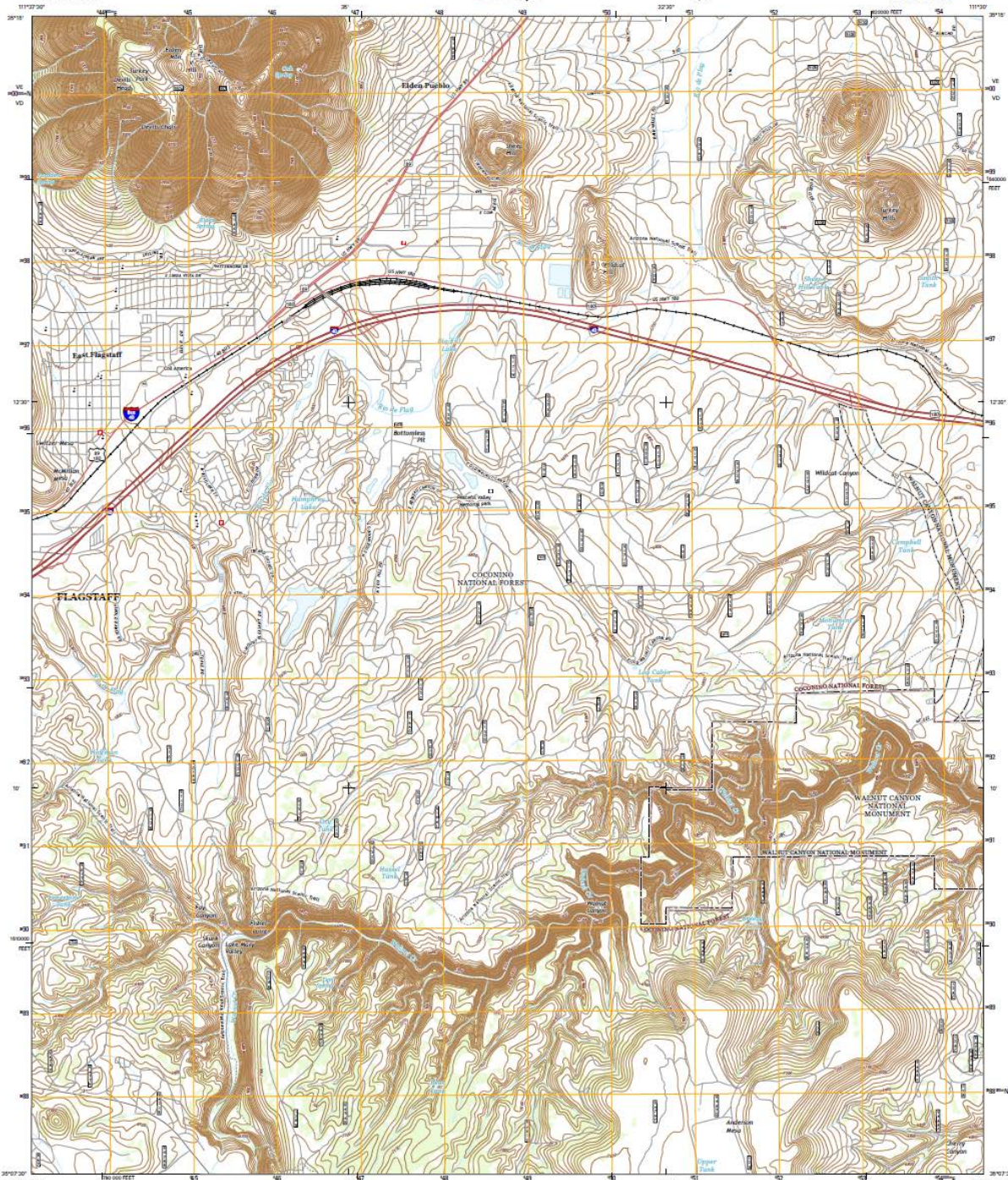
<b>Designed Use HIKER/PEDESTRIAN</b>		<b>Trail Class 3</b>
<b>Design Tread Width</b>	Non-wilderness (Single Lane)	18" - 36"
<b>Design Surface</b>	Type	Native, with some onsite borrow or imported material where needed for stabilization and occasional grading Intermittently rough
	Protrusions	Less than or equal to 3". May be common, not continuous
	Obstacle (Maximum Height)	10"
<b>Design Grade</b>	Target Grade	3% - 12%
	Short Pitch Maximum	25%
	Maximum Pitch Density	10% - 20% of trail
<b>Design Cross Slope</b>	Target Cross Slope	5% - 10%
	Maximum Cross Slope	15%
<b>Design Clearing</b>	Height	7' - 8'
	Width	36" - 60"
	Shoulder Clearance	12" - 18"
<b>Design Turn</b>	Radius	3' - 6'



U.S. DEPARTMENT OF THE INTERIOR  
U.S. GEOLOGICAL SURVEY



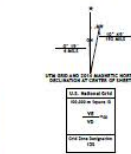
FLAGSTAFF EAST QUADRANGLE  
ARIZONA-COCONINO CO.  
7.5-MINUTE SERIES



Produced by the United States Geological Survey  
with selected data of 1982 (NAD83)  
World Geodetic System of 1984 (WGS84), projection and  
1:50,000 scale, National Triangulation System Zone 12  
100,000-foot scale, Arizona Coordinate System of 1983 (Arizona  
State)

This map is not a legal document. Boundaries may be  
generalized for this map scale. Please check with government  
agencies for more information. Obtain permission before  
reproducing or using this map.

Images: Aerial, June 2013  
Base: 1982, 2013  
Roads with US Forest Service Lands: 1982, 2013  
with National Forest Service Lands: 2013  
Name: National, 2013  
Contour Interval: 20 feet, 2013  
Boundaries: Multiple sources, see metadata file 1972 - 2013  
Public Land Survey System: 1916, 2013



SCALE 1:24 000

CONTOUR INTERVAL: 20 FEET  
NORTH AMERICAN DATUM OF 1983

This map was produced to conform with the  
National Geographic Program US Topographic Standard, 2011.  
A metadata file associated with this product is available at  
http://www.usgs.gov/metadata/

**ROAD CLASSIFICATION**

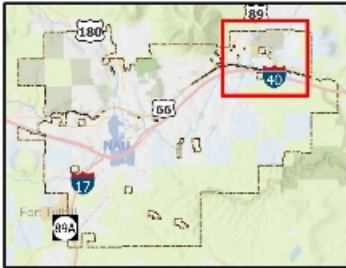
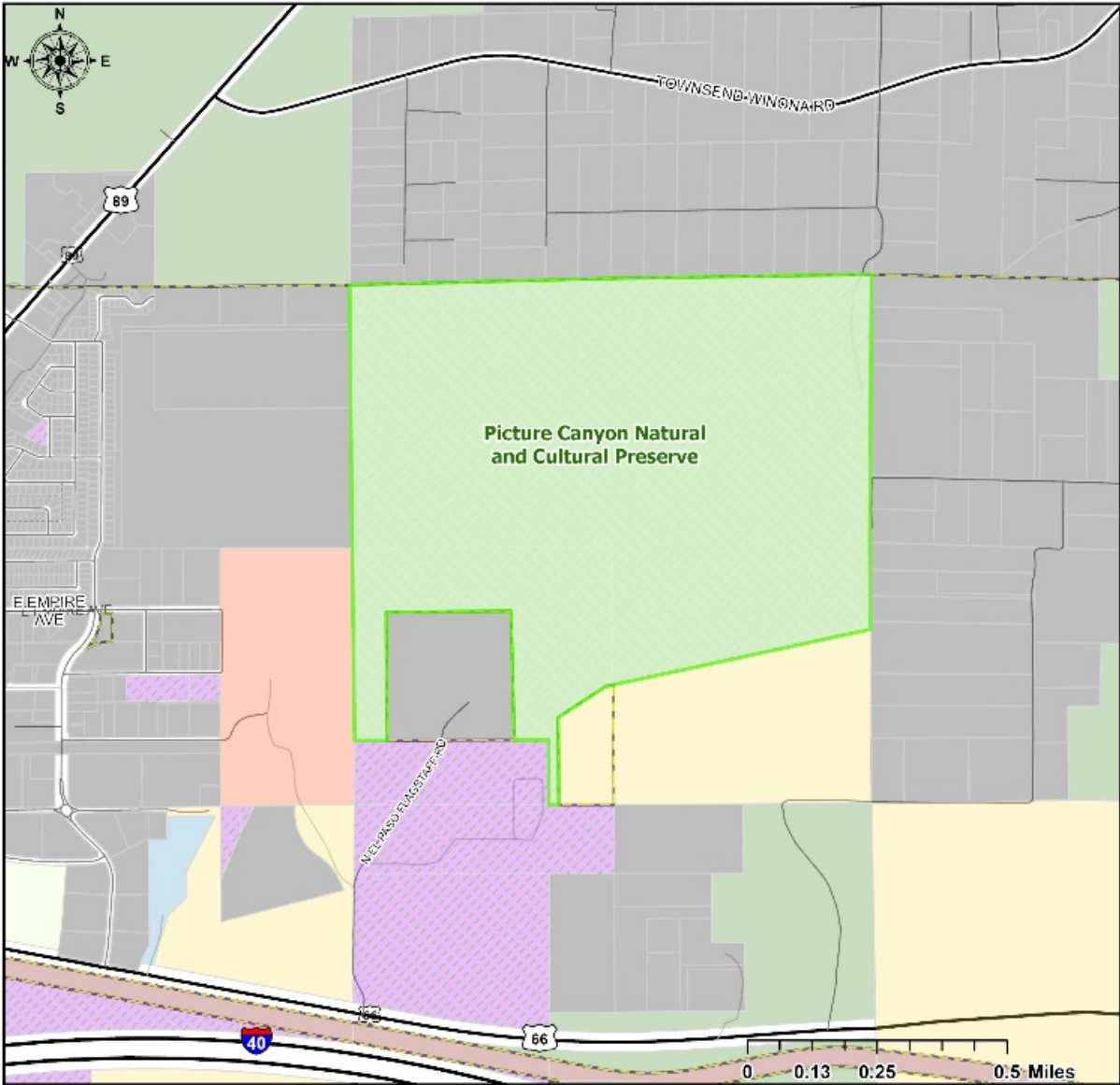
Expressway	Local Connector
Secondary Hwy	Local Road
Route	RD
State Route	State Route
US Highway	US Highway
Interstate Route	Interstate Route
Highway	Highway
Trail	Trail

Check with local Forest Service unit  
for current trail conditions and restrictions.

**FLAGSTAFF EAST, AZ**  
2014

# Overview

## Picture Canyon Natural and Cultural Preserve



- |  |  |
|--|--|
|  Picture Canyon Boundary      |  Coconino County          |
|  City Boundary                |  Coconino National Forest |
|  ADOT                         |  Private Ownership        |
|  BNSF                         |  State Trust              |
|  City of Flagstaff Management |  State of Arizona         |

4/22/2020

### Bid Schedule

Contractor Proposal (AZCC)		Agreed Upon Award	
6 weeks	crew Unauthorized Trail	33,600	4 weeks
6 weeks	crew seeding and bed prep	42,000	5 weeks
6 weeks	4 Rotos (430/week/roto)	6,450	3 rotos for 5 weeks
100 bales of straw	\$12 each	0	COF to purchase
Hydro seeding	5 acres	0	cancel
		<b>82,050</b>	
6 weeks	Trails with cinders	25,200	3 week
100 tons of cinders	\$14 / ton	0	COF to purchase
		<b>25,200</b>	
2 weeks	sign installation	16,800.00	2 weeks
posts and supplies		0	COF to purchase
		<b>16,800</b>	
Cost:		124,050	Contributing additional \$20,691.99 OS base budget funds

## EXHIBIT B

### STANDARD TERMS AND CONDITIONS

(Last Updated January 19, 2023)

\*The term "Contractor" may substitute for the term "vendors," "consultants," or "firms," depending on the purpose of the underlying Contract.

#### IN GENERAL

1. **PARTIES:** The City of Flagstaff ("City") and the contractor identified in the Contract ("Contractor") may be referred to individually as "Party" or collectively as "Parties".
2. **NOTICE TO PROCEED:** Contractor shall not commence performance until after the City has issued a Notice to Proceed.
3. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract and provide copies to City upon request.
4. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of the Contract.
5. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, the Contract is non-exclusive and the City reserves the right to contract with others for materials or services.
6. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

#### MATERIALS

7. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.
8. **QUALITY:** Contractor warrants that all materials supplied under the Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials and will be safe and appropriate for use as normally used. The City's inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.
9. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.
10. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to the City upon the City's acceptance of the materials.

11. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.
12. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.
13. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.
14. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor may not substitute nonconforming materials and/or services. Delivery of nonconforming materials and/or services, or a default of any nature, shall constitute a breach of the Contract as a whole.
15. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.
16. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens, other than the security interest held by Contractor, until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.
17. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

## **PAYMENT**

18. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number and dates when goods had been shipped or work performed. Invoices shall be sent within thirty (30) days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.
19. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, the City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

- 20. TAXES:** Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of the Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

Exception: The City will pay any taxes which are specifically identified as a line-item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

- 21. FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.
- 22. FUEL CHARGES:** Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by the City.
- 23. DISCOUNTS:** If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by the City.
- 24. AMOUNTS DUE TO THE CITY:** Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to the City or fees and charges owed to the City under the Contract.
- 25. OFAC:** No payments may be made to any person in violation of Office of Foreign Assets Control regulations. 31 C.F.R. Part 501.

## **SERVICES**

- 26. INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.
- 27. CONTROL:** Contractor shall be responsible for the control of the work.
- 28. WORK SITE:** Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.
- 29. SAFEGUARDING PROPERTY:** Contractor shall responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.
- 30. QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.
- 31. ACCEPTANCE:** If the City rejects Contractor's work due to noncompliance with the Contract, the City, after notifying Contractor in writing, may require Contractor to correct the

deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.

32. **WARRANTY:** Contractor warrants all work for a period of one year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This one year warranty is in addition to and does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

### **INSPECTION, RECORDS, ADMINISTRATION**

33. **RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five years after completion of the Contract.
34. **RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.
35. **PUBLIC RECORDS:** The Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law. A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.
36. **CONTRACT ADMINISTRATION:** Contractor will be required to participate in the City's contract administration process. Contractor will be closely monitored for Contract compliance and will be required to promptly correct any deficiencies.

### **INDEMNIFICATION**

37. **GENERAL INDEMNIFICATION:** Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense, arising out of the acts, errors, or omissions of Contractor, its officers, agents, employees, and subcontractors, in performing or failing to perform the responsibilities identified in the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects, and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.
38. **INTELLECTUAL PROPERTY INDEMNIFICATION:** Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of the alleged infringement of any patent, trademark or copyright or other proprietary rights of any third-parties arising out of Contract performance

or use by the City of materials furnished or work performed under the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

- 39. NETWORK SECURITY AND PRIVACY LIABILITY:** Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from an against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

### **CONTRACT CHANGES**

- 40. PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.
- 41. COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the Parties.
- 42. AMENDMENTS:** The Contract may be amended by written agreement of the Parties.
- 43. SEVERABILITY:** If any term or provision of the Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted and the remainder of the Contract shall remain in full force and effect.
- 44. NO WAIVER:** Both Parties have the right insist upon strict performance of the Contract, and the prior failure of a Party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.
- 45. ASSIGNMENT:** Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. Any

assignment without such consent shall be null and void. No assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to the City. The Purchasing Director shall have authority to consent to an assignment on behalf of the City.

46. **BINDING EFFECT:** The Contract shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

#### **EMPLOYEES AND SUBCONTRACTORS**

47. **SUBCONTRACTING:** Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. The City reserves the right to withhold consent if the subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.

48. **NONDISCRIMINATION:** Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition, any Contractor whose business is located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02, *Civil Rights*, which also prohibits discrimination based on sexual orientation, or gender identity or expression.

49. **DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor's personnel shall abstain from use or possession of illegal drugs while engaged in performance of the Contract.

50. **IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors shall comply with all state and federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of state and federal immigration laws and regulations shall constitute a material breach of the Contract and shall subject Contractor to penalties up to and including termination of the Contract. The City may, at its sole discretion, conduct random verification of the employment records of the employees of the Contractor and any subcontractors to ensure compliance with all state and federal immigration laws and regulations. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contract if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

#### **DEFAULT AND TERMINATION**

51. **TERMINATION FOR DEFAULT:** Prior to terminating the Contract for a material breach, the non-defaulting Party shall give the defaulting Party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting Party in writing. In the event the breach is not timely cured,

or in the event of a series of repeated breaches the non-defaulting Party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the Parties may execute all remedies available at law in addition to the Contract remedies provided for herein.

52. **CITY REMEDIES:** In the event of Contractor's default, the City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. The City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.
53. **CONTRACTOR REMEDIES:** In the event of the City's default, Contractor may pursue all remedies available at law, except as provided for herein.
54. **TERMINATION FOR NONAPPROPRIATION OF FUNDS:** The City may terminate all or a portion of the Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.
55. **TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, the Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If the Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by the City before the effective date of termination.
56. **TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate the Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.
57. **PAYMENT UPON TERMINATION:** Upon termination of the Contract, the City will pay Contractor for satisfactory performance up until the effective date of termination. The City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.
58. **CANCELLATION FOR GRATUITIES:** The City may cancel the Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with award or performance of the Contract.
59. **CANCELLATION FOR CONFLICT OF INTEREST:** Pursuant to A.R.S. § 38-511, if the City identifies a conflict of interest in the award or performance of the Contract, the City may cancel the Contract within three years after its execution, without penalty or further liability to Contractor.

## **MISCELLANEOUS**

- 60. COOPERATIVE PURCHASE CONTRACTS:** Presuming that Contractor agreed to such during the procurement process, Contractor will enter into cooperative purchase arrangements, as sanctioned by state and federal law, to allow Contractor to sell materials and services to any member of a cooperative group under the same pricing, terms and conditions of the contract awarded to the Contractor by the public procurement unit, following a competitive procurement process.
- 61. ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with the City without the prior written consent of the City.
- 62. NOTICES:** All notices given pursuant to the Contract shall be delivered at the addresses as specified in the Contract or updated by Notice to the other Party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four days after being sent; or (c) sent by overnight courier, with receipt deemed effective two days after being sent. Notice may be sent by email as a secondary form of notice.
- 63. THIRD PARTY BENEFICIARIES:** The Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.
- 64. GOVERNING LAW:** The Contract shall be construed in accordance with the laws of Arizona.
- 65. FORUM:** In the event of litigation relating to the Contract, any action at law or in equity shall be filed in Coconino County, Arizona.
- 66. ATTORNEYS' FEES:** If any action at law or in equity is necessary to enforce the terms of the Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.
- 67. FORCE MAJUERE:**
- a. There may be events that occur during the term of the Contract that are beyond the control of both the City and Contractor, including events of war, floods, labor, disputes, earthquakes, epidemics, pandemics, adverse weather conditions not reasonably anticipated, forest fires, and other acts of God ("Events"). These Events may result in a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables that are the subject of the Contract.
  - b. There shall be no claims arising from a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables caused by the Events and the City shall not pay additional costs incurred by Contractor as a result of such Events.
  - c. The Parties shall act in good faith to extend the Contract completion date without any penalty to Contractor and that the extension will be in an amount of time equal to any temporary delay. This provision of the Contract supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.

68. **NO BOYCOTT OF ISRAEL:** Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Contract is worth at least one-hundred thousand dollars and no cents (\$100,000), the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Contract, will not engage in a boycott of Israel.
69. **CHANGES TO CONTRACT:** The Contract shall not be modified within the first year after Contract award where: (a) an amendment may result in a competitive advantage that was not made available to other proposers/bidders; or (b) requests for changes may delay commencement of performance.
70. **FORCED LABOR OF ETHNIC UYGHURS:** If Contractor engages in for-profit activity and has ten (10) or more employees, pursuant to A.R.S. §35-394, the Contractor certifies that it does not currently, and agrees for the duration of the contract that it will not, use: 1) the forced labor of ethnic Uyghurs in the People's Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If the Contractor becomes aware during the term of the contract that the company is not in compliance with the written certification, the Contractor shall notify the City within five (5) business days after becoming aware of the noncompliance. If the Contractor does not provide the City with a written certification that the Contractor has remedied the noncompliance within 180 days after notifying the City of the noncompliance, this Contract terminates, except that if the contract termination date occurs before the end of the remedy period the Contract terminations on the Contract termination date.

**EXHIBIT C**

**STANDARD INSURANCE REQUIREMENTS**

(Last Updated January 19, 2023)

\*The term "Contractor" may substitute for the term "vendors," "consultants," or "firms," depending on the purpose of the underlying Contract.

1. **IN GENERAL:** Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with the Contract by Contractor, its agents, representatives, employees, and/or subcontractors.
2. **REQUIREMENT TO PROCURE AND MAINTAIN:** Each insurance policy required by the Contract shall be in effect at, or before, commencement of work under the Contract and shall remain in effect until all of Contractor's obligations under the Contract have been met, including any warranty periods. Contractor's failure to maintain the insurance policies as required by the Contract, or to provide timely evidence of renewal, will be considered a material breach of the Contract.
3. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** The following insurance requirements are minimum requirements for the Contract and in no way limit the indemnity covenants contained in the Contract. The City does not represent or warrant that the minimum limits set forth in the Contract are sufficient to protect Contractor from liabilities that might arise out of the Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Where applicable, as related to the Scope of Work, Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form	
General Aggregate	\$2,000,000
Products/Completed Operations	\$1,000,000
Each Occurrence	\$1,000,000
b. Umbrella Coverage	\$2,000,000
c. Automobile Liability	
Any Automobile or Owned, Hired, and Non-owned Vehicles	\$1,000,000
Combined Single Limit Per Accident for Bodily Injury & Property Damage	
d. Workers' Compensation and Employer's Liability	
Workers' Compensation	Statutory
Employer's Liability: Each Accident	\$1,000,000
Disease - Each Employee	\$1,000,000
Disease - Policy Limit	\$1,000,000
e. Professional Liability	\$2,000,000

f. Network Security and Privacy Liability

Per claim	\$2,000,000
Annual Aggregate	\$2,000,000

4. **NETWORK SECURITY AND PRIVACY LIABILITY:** Contractor shall maintain the requisite insurance requirements covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. The insurance policy shall include coverage for third-party claims. The insurance policy shall contain an affirmative coverage grant for contingent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided.
5. **SELF-INSURED RETENTION:** Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that Contractor reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and/or subcontractors. Contractor shall be solely responsible for any self-insured retention amounts. The City at its option may require Contractor to secure payment of such self-insured retention by a surety bond or irrevocable and unconditional letter of credit.
6. **OTHER INSURANCE REQUIREMENTS:** The insurance policies shall contain, or be endorsed to contain, the following provisions:
- a. Additional Insured: In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents, employees, and/or subcontractors shall be named and endorsed as additional insureds with respect to liability arising out of the Contract and activities performed by or on behalf of Contractor, including products and completed operations of Contractor, and automobiles owned, leased, hired, or borrowed by Contractor.
  - b. Broad Form: Contractor's insurance policy shall contain broad form contractual liability coverage.
  - c. Primary Insurance: Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees, and/or subcontractors. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, and/or subcontractors shall be in excess of the coverage of Contractor's insurance and shall not contribute to it.
  - d. Each Insured: Contractor's insurance policies shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - e. Not Limited: Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of the Contract.

f. Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation against the City, its officers, officials, agents, employees, and/or subcontractors for losses arising from work performed by Contractor for the City.

7. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of the Contract shall provide the required coverage and shall not be suspended, voided, cancelled, and/or reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Procurement Agent and shall reference the Contract Number.
8. **ACCEPTABILITY OF INSURERS:** Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a “Best’s” rating of not less than A-: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.
9. **CERTIFICATES OF INSURANCE:** Contractor shall furnish the City with certificates of insurance (ACORD form) as required by the Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City Contract number shall be noted on the certificates of insurance. If requested by the City, all certificates of insurance and endorsements must be received and approved by the City before the Contractor commences work.
10. **POLICIES:** The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by the Contract. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City’s receipt of Contractor’s policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City’s right to insist on strict fulfillment of Contractor’s obligations under the Contract.
11. **MODIFICATIONS:** Any modification or variation from the insurance requirements in the Contract must have the prior approval of the City’s Attorney’s Office in consultation with the City’s Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.



## **GRANT PROVISIONS**

**Sponsor:** City of Flagstaff

**Funding Agency:** Arizona State Parks & Trails

Arizona State Parks and Trails  
GRANT PROJECT SPONSOR AGREEMENT  
**Attachment B**  
General Conditions Applicable to Project Grants

This Agreement applies to grants for motorized projects awarded pursuant to the Off-Highway Vehicle Program, the Recreational Trails Program, Heritage Fund Program and State Lake Improvement 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 an Agreement/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. 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

In accordance with A.R.S. § 12-1518, the parties agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review except as may be required by other applicable statutes. Venue shall be in Maricopa County, Arizona.

#### C. APPLICABLE LAW

In accordance with A.R.S. § 51-2501, et seq, and A.A.C. R2-7-101, et seq. Agreement shall be governed and interpreted by the laws of the State of Arizona and the Arizona State Procurement Code.

#### D. NON-DISCRIMINATION

In accordance with A.R.S. § 41-1461, et seq, Agreement shall provide equal employment opportunities for all persons, regardless of race, color, creed, religion, sex, age, national origin, disability or political affiliation. PROJECT SPONSOR shall comply with all applicable provisions of the Arizona Americans 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.

#### E. E-VERIFY

In accordance with A.R.S. § 41-4401, PROJECT SPONSOR warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with AAC section

A.R.S. § 23-214, Subsection A.

#### F. AUDIT AND RECORDS RETENTION

In accordance with A.R.S. § 35-214, the PROJECT SPONSOR shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the PROJECT SPONSOR shall produce the original of any or all such records.

#### G. CONFLICT OF INTEREST

In accordance with A.R.S. § 38-511, state may within three years after execution cancel the Contract, without penalty or further obligation, if any person significantly involved in initiatingm negotiating, securing, drafting or creating the Agreement on behalf of the State, at Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

#### 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.

#### 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. INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as

"Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, Arizona State Parks Board (ASPB) is selfinsured per A.R.S. 41-621.

In addition, should PROJECT SPONSOR utilize a contractor(s) and subcontractor(s) the indemnification clause between PROJECT SPONSOR and its contractor(s) and subcontractor(s) shall include the following:

To the fullest extent permitted by law, sub-contractor shall defend, indemnify, and hold harmless the PROJECT SPONSOR and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, , officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

#### M. 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 Agreement and in no way limit the indemnity covenants contained in this Agreement. 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 Agreement 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 .....	\$ 100,000
• 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 PROJECT SPONSOR.

- 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 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 Agreement.

- 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 shall include, or be endorsed to include, as required by this written agreement, 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 Agreement.
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 Agreement.

Notice of Cancellation:

Applicable to all insurance policies required within the Insurance Requirements of this Agreement, PROJECT SPONSOR’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, PROJECT SPONSOR 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 mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

#### Acceptability of Insurers

PROJECT SPONSOR'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 PROJECT SPONSOR from potential insurer insolvency.

#### Verification of Coverage:

PROJECT SPONSOR shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that PROJECT SPONSOR has the insurance as required by this Agreement. 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 Agreement must be in effect at, or prior to, commencement of work under this Agreement. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.
3. All certificates required by this Agreement shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Agreement at any time.

#### Subcontractors:

PROJECT SPONSOR's certificate(s) shall include all subcontractors as insureds under its policies or PROJECT SPONSOR 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 Department reserves the right to require, at any time throughout the life of the Agreement, proof from the PROJECT SPONSOR 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 Agreement, as deemed necessary. Such action will not require a formal Agreement amendment, but may be made by administrative action.

#### Exceptions:

In the event the PROJECT SPONSOR or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the PROJECT SPONSOR or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.