

ADOT CAR No.: IGA 23-0009234-I
AG Contract No.: P0012023000943
Project Location/Name: US180 at Schultz
Creek
Type of Work: Drainage Maintenance
Federal-aid No.: NA
ADOT Project No.: NA
TIP/STIP No.: NA
CFDA No.: NA
Budget Source Item No.: NA

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF

THIS AGREEMENT (“Agreement”) is entered into this date _____, pursuant to the Arizona Revised Statutes (“A.R.S.”) §§ 11-951 through 11-954, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the “State” or “ADOT”) and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the “City” or “Local Agency”). The State and the Local Agency are each individually referred to as a “Party” and are collectively referred to as the “Parties.”

I. RECITALS

1. The State is empowered by A.R.S. § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The Local Agency is empowered by A.R.S. §§ 11-952 and 48-572 to enter into this Agreement and has by resolution, a copy of which is attached and made a part of, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Local Agency.
3. The Local Agency will design, advertise, award and administer construction of a new drainage system and appurtenances at US180 and Schultz Creek (Milepost 217.75), (the “City’s Project”). The location of the City’s Project is shown on Exhibit A. The Local Agency will obtain an encroachment permit from the State to complete the City’s Project and be responsible for actual costs, any new right of way and temporary construction easements (TCE’s), operations, and maintenance of the City’s Project. Maintenance responsibilities prior to and after City’s Project completion will be defined in the Scope of Work section of this Agreement and as shown on Exhibit B. The State will review the City’s Project design plans and provide an inspector for the portion of the City’s Project within ADOT right of way at no additional cost to the Local Agency. All work within ADOT right of way shall conform to the most current version of ADOT standards, including but not limited to standard

specifications, standard details, etc. The Local Agency's letter of intent of the City's Project is shown on Exhibit C.

4. The foregoing Recitals and Exhibits shall be incorporated into this Agreement.

In consideration of the mutual terms expressed herein, the Parties agree as follows:

II. SCOPE OF WORK

1. The Parties agree:
 - a. To perform their responsibilities consistent with this Agreement; any change or modification to the City's Project will only occur with the mutual written consent of both Parties.
 - b. The Local Agency will be responsible for any and all City's Project costs.
 - c. The State has constructed improvements and repairs of the existing storm drainage system along US180 and added a new 48-inch line perpendicular to US180 from the right of way to the Rio de Flag, ("the Interim Improvement"), as shown on Exhibit B. As part of the Interim Improvement the State installed at the Local Agency's request, a flow restriction plate within the box culvert at the entrance to the 48-inch existing line paralleling US180 to the south. The Local Agency will be responsible for any effects caused solely by the restrictive plate that are unanticipated, including but not limited to cleanup of any debris within the roadway. The Local Agency will remove the restrictor plate, at the Local Agency's expense, upon mutual agreement of both Parties, should the restrictor plate cause unanticipated negative impacts, as shown on Exhibit C.
 - d. The Local Agency's defined area of responsibility as shown on Exhibit A, is in conceptual form and may be modified to reflect any changes during the design and construction of the City's Project and will be automatically included in this Agreement. Any modifications to Exhibit A may be revised by mutual written agreement of the Parties without necessitating a formal amendment to this Agreement.
 - e. Any future modifications within the City's Project limits required for transportation purposes and resulting in the removal or alteration of the City's Project will have precedence over the City's Project and there will be no compensation owed to the Local Agency.
2. The State will:
 - a. Issue, in accordance with the established procedures of the State's Northcentral District Permit Office, a permit for the maintenance of the Interim Improvement, the initial construction of the City's Project, separate permits for related pre-construction activities (such as pot-holing, utility work, survey etc.), and a permit on a yearly basis for routine maintenance and emergency work related to the City's Project. Routine maintenance and emergency work will be defined within the permit. Permits will be

issued when appropriate insurance documents are provided as required by ADOT Risk Management.

- b. Review the design plans, specifications and other such documents and services required for the construction of the City's Project within the State's right of way and provide comments to the Local Agency as appropriate.
 - c. Coordinate with the Local Agency throughout the construction phase of the City's Project for the State's inspection of all City's Project activities within the State right of way, including those that the State will own, and the Local Agency will operate and maintain, as shown in Exhibit A.
 - d. Not be obligated to maintain those areas identified as the Local Agency's responsibility in Exhibits A and B.
3. The Local Agency will:
- a. Submit an encroachment permit application with all required documentation to the State's Northcentral District Permit Office for the maintenance of the Interim Improvement, initial construction of the City's Project, separate encroachment permit applications for related pre-construction activities as needed, and an encroachment permit application for routine maintenance and emergency work. Provide appropriate insurance with each encroachment permit once, then annually for the maintenance and emergency work to keep that permit valid. Notify the State's Northcentral District Permit Office of any emergency maintenance work affecting the State right of way. Submit an encroachment permit application for any new construction or installation.
 - b. Prepare and provide the design documents required for construction of the City's Project and incorporate comments from the State as appropriate.
 - c. Not proceed with construction until ADOT has concurred with the location and reviewed and approved final design.
 - d. Be responsible for all City's Project costs incurred in performing and accomplishing the work as set forth under this Agreement.
 - e. Not permit or allow any encroachments upon or private use of the public right of way, except those authorized by permit. Coordinate all authorized permits with ADOT prior to construction. In the event of any unauthorized encroachment or improper use, the Local Agency shall take all necessary steps to remove or prevent any such encroachment or use.
 - f. Coordinate inspection of Project improvements for those facilities within the State right of way that the State will own, as shown in Exhibit A. Be responsible for any and all future repairs, modifications, maintenance, damages to ADOT property resulting from the Project.
 - g. In coordination with the State and throughout the construction phase of the City's Project, inspect all the City's Project improvements that the Local Agency will construct

within State right of way and that the State will own and the Local Agency will operate and maintain. Be responsible for any and all future repairs, modifications, maintenance, and damages to the City's Project.

- h. After final inspection and acceptance of the City's Project, assume operation and maintenance responsibilities, associated with the City's Project as shown on Exhibit A.
- i. Perform routine/minor maintenance and any structural and non-structural repairs of improvements constructed by the Local Agency to Local Agency standards at its sole expense. The areas and features of maintenance include, but are not limited to: surface drainage features feeding into the State's drainage system including catch basins. Maintenance activities include but are not limited to: litter and trash removal, regular debris and sediment removal, and upkeep of related facilities including handrails and other items. The repairs or maintenance performed by the Local Agency shall not compromise the safety and structural stability of the State facilities.
- j. Maintain the City's Project to ensure a positive flow at all times keeping the system free of debris and sediment.
- k. After execution of the Agreement, maintain the Interim Improvement drainage system from Schultz Creek on the east side of the US180 through all associated pipes, boxes, inlets, etc. within the State's right of way. This shall include the existing arch and box facilities under US180, the 48" pipe paralleling US180 to the south to the drop inlet commonly known as the "bubbler", the 36" pipe leaving the "bubbler" area toward the Rio de Flag, and the 48" pipe from the junction with the box extension under US180 to the west (installed by ADOT in 2023). Maintenance shall include cleaning the system and maintaining positive flow throughout the system according to City standards.
- l. Be responsible for routine/minor maintenance of the drainage basins and catch basins (including vector control), consistent with City maintenance and operations levels within the areas where the Local Agency is responsible for maintenance, as shown on Exhibits A and B.
- m. Coordinate with the State to address any potential temporary or permanent impacts to the State's drainage system, catch basins, culverts, etc., related to any/all new construction by the Local Agency. Be liable for any/all new construction related modifications and/or construction elements within the State's right of way to accommodate the Local Agency's new construction, including any/all related costs to the State.
- n. Comply with the latest edition Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration (FHWA) and adopted by ADOT, as per A.R.S. § 28-641, when performing any work under this Agreement. Traffic Control plans will be processed through the State's Northcentral District Permits Office.

III. MISCELLANEOUS PROVISIONS

1. Effective Date. This Agreement shall become effective upon signing and dating of all Parties.

2. Amendments. Any change or modification to this Agreement will only occur with the mutual written consent of both Parties.
3. Duration. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the City's Project. Any and all obligations of maintenance hereunder shall remain perpetual and shall survive any termination hereof and the assignment or assumption of this Agreement or the City's Project by another competent jurisdiction or entity.
4. Cancellation. This Agreement may be cancelled at any time up to 30 days before the award of the City's Project contract, so long as the cancelling Party provides at least 30 days' prior written notice to the other Party. It is understood and agreed that, in the event the Local Agency terminates this Agreement, the State shall in no way be obligated to complete or maintain the City's Project and the State shall not allow the Local Agency to construct the City's Project in the State's right of way. Furthermore, should the Local Agency terminate this Agreement it does not terminate the Local Agency's responsibility to remove the restrictor plate if needed, as detailed in Section II.1.c. of this Agreement. A new agreement may be necessary if this Agreement is cancelled.
5. Federal Funding Accountability and Transparency Act. The Parties warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the Local Agency will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.
6. Governing Law. This Agreement shall be governed by and construed in accordance with Arizona laws.
7. Conflicts of Interest. This Agreement may be cancelled in accordance with A.R.S. § 38-511.
8. Inspection and Audit. The Local Agency shall retain all books, accounts, reports, files and other records relating to this Agreement which shall be subject at all reasonable times to inspection and audit by the State for five years after completion of the City's Project. Such records shall be produced by the Local Agency, electronically or at the State office as set forth in this Agreement, at the request of ADOT.
9. Title VI. The Local Agency acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.
10. Non-Discrimination. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The Parties to this Agreement shall comply with Executive Order Number 2009-09, as amended by Executive Order 2023-01, issued by the Governor of the State of Arizona and incorporated in this Agreement by reference regarding "Non-Discrimination."
11. Non-Availability of Funds. Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement,

this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

12. Arbitration. In the event of any controversy, which may arise out of this Agreement, the Parties agree to abide by arbitration as is set forth for public works contracts if required by A.R.S. § 12-1518.
13. E-Verify. The Parties shall comply with the applicable requirements of A.R.S. § 41-4401.
14. Contractor Certifications. The Local Agency shall certify that all contractors comply with the applicable requirements of A.R.S. §§ 35-393.01 and 35-394.
15. Other Applicable Laws. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.
16. Notices. All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered electronically, in person, or sent by mail, addressed as follows:

For Agreement Administration:

Arizona Department of Transportation
Joint Project Agreement Group
205 S. 17th Avenue, Mail Drop 637E
Phoenix, AZ 85007
JPABranch@azdot.gov

City of Flagstaff
Attn: Stacey Brechler-Knaggs
211 West Aspen
Flagstaff, AZ 86001
928.213.2227
sknaggs@flagstaffaz.gov

For Project Administration:

Arizona Department of Transportation
Northcentral District
1959 S. Woodlands Village Blvd, Suite B-110
Flagstaff, AZ 86001
928.774.1491

City of Flagstaff
Attn: Stacey Brechler-Knaggs
211 West Aspen
Flagstaff, AZ 86001
928.213.2227
sknaggs@flagstaffaz.gov

For Maintenance Related Issues:

Arizona Department of Transportation
Northcentral District
1959 S. Woodlands Village Blvd, Suite B-110
Flagstaff, AZ 86001
928.774.1491

City of Flagstaff
Attn: Stacey Brechler-Knaggs
211 West Aspen
Flagstaff, AZ 86001
928.213.2227
sknaggs@flagstaffaz.gov

17. Revisions to Contacts. Any revisions to the names and addresses above may be updated administratively by either Party and shall be in writing.

18. Legal Counsel Approval. In accordance with A.R.S. § 11-952 (D), the written determination of each Party’s legal counsel providing that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form is set forth below.

19. Electronic Signatures. This Agreement may be signed in an electronic format using DocuSign.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective upon the full completion of signing and dating by all Parties to this Agreement.

CITY OF FLAGSTAFF

By _____ Date _____
BECKY DAGGETT
Mayor

ATTEST:

By _____ Date _____
STACY SALTZBURG
City Clerk

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its Department of Transportation, and the City of Flagstaff, an agreement among public agencies which, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 48-572 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement. Approved as to Form:

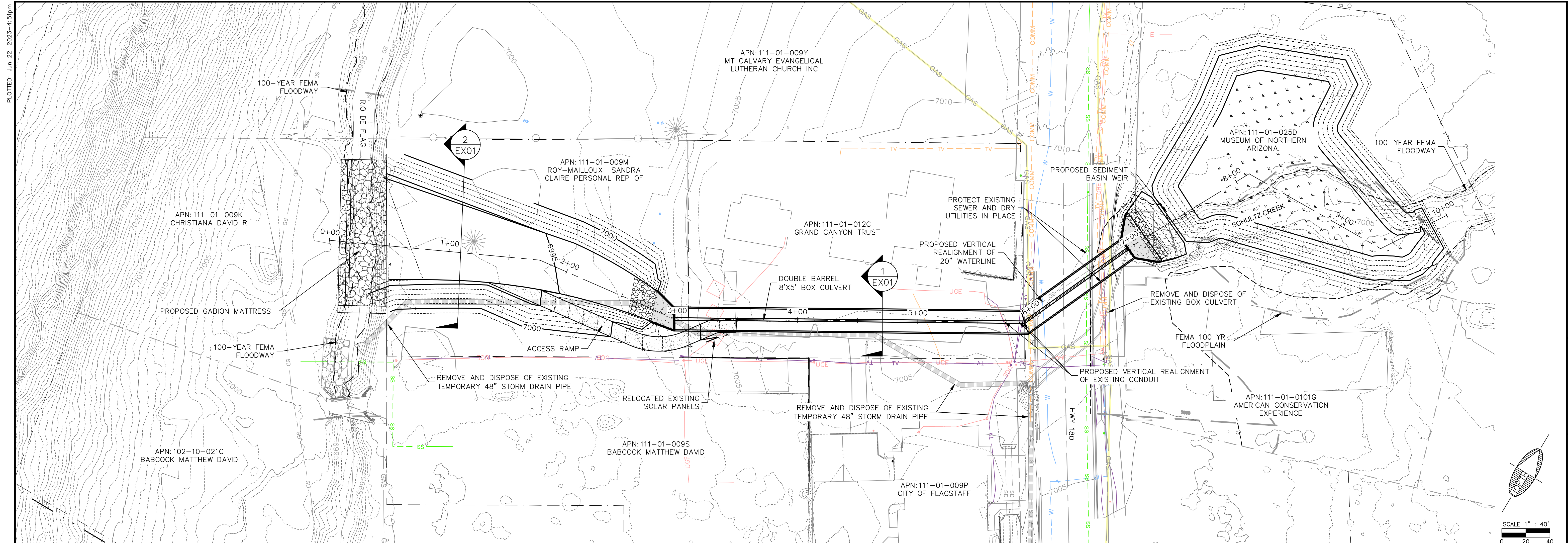
By _____ Date _____
City Attorney

ARIZONA DEPARTMENT OF TRANSPORTATION

By _____ Date _____
STEVE BOSCHEN, PE
Infrastructure Delivery and Operations Division
Division Director

A.G. Contract No. P0012023000943 (ADOT IGA 23-0009234-I), an Agreement between public agencies, the State of Arizona and the City of Flagstaff, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 28-401, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona. No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

By _____ Date _____
Assistant Attorney General



FLAGSTAFF ARIZONA

FIRE DEPT. CHANNEL

JOB NO: 223008
DATE: JUN 23
SCALE: AS SHOWN
DRAWN: HAS
DESIGN: HAS
CHECKED: SCI

110 W. Dole Avenue
Flagstaff, AZ 86001
928.774.8934 fax
928.774.8934
www.gardurra.com

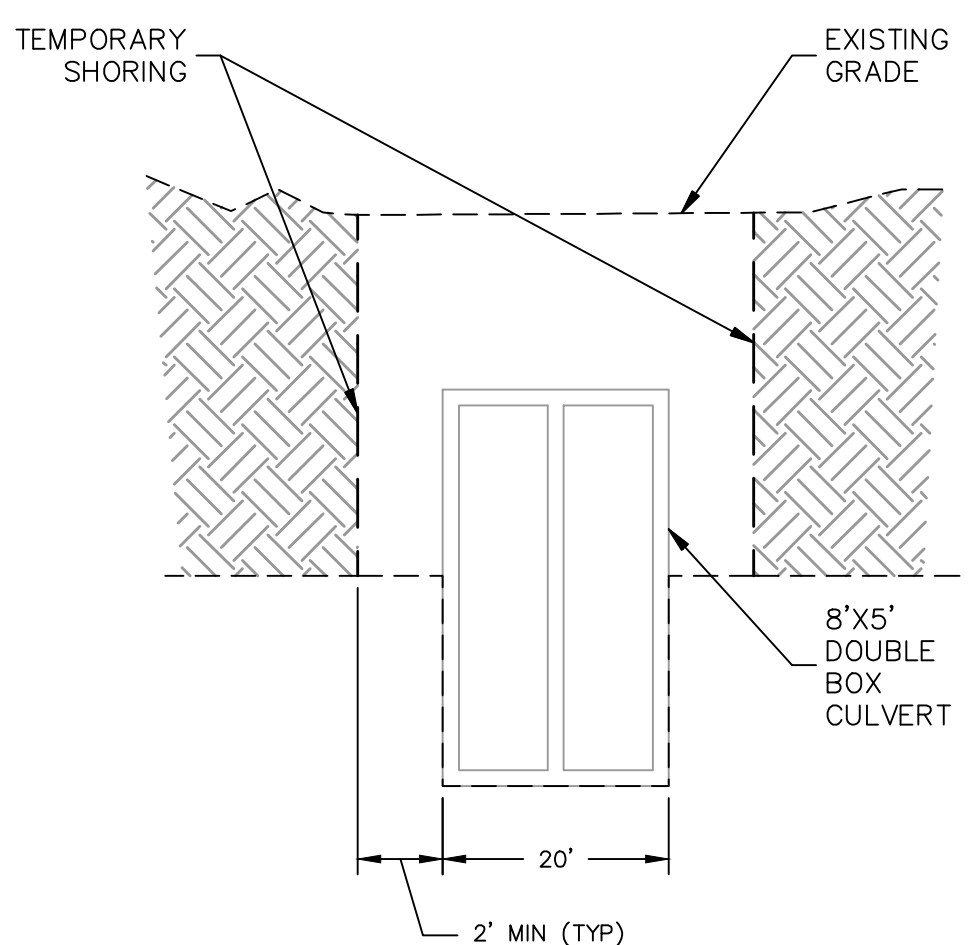
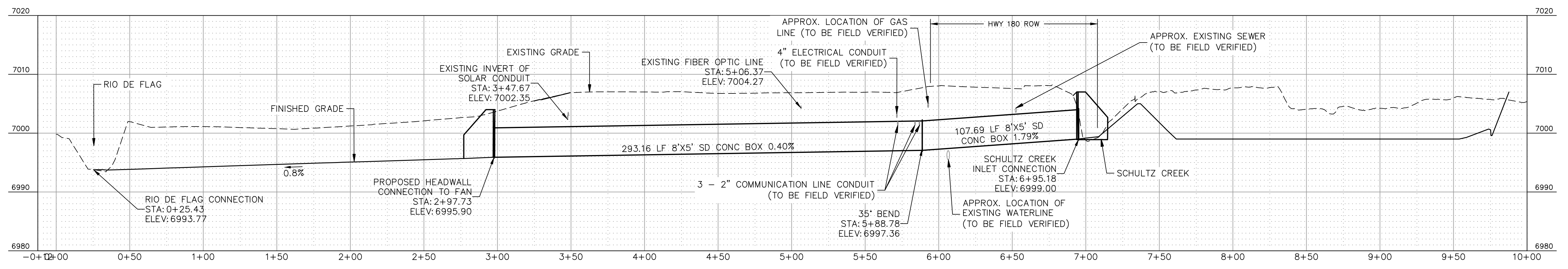
Shepard Wesnitzen Inc
An ARDURRA Company

REVISIONS

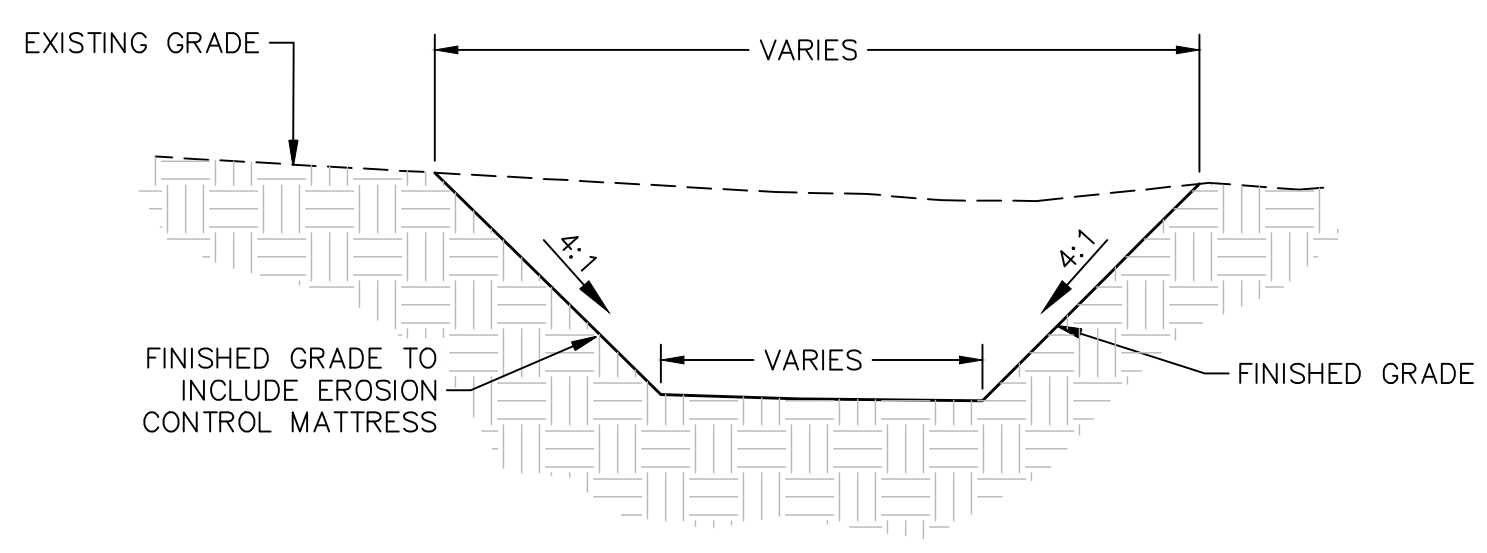
NO.	DESCRIPTION	DATE	BY

Contact Arizona 811 at least two full working days before you begin excavation

ARIZONA 811
Call 811 or click Arizona811.com



TEMPORARY SHORING 1
NO SCALE EX01



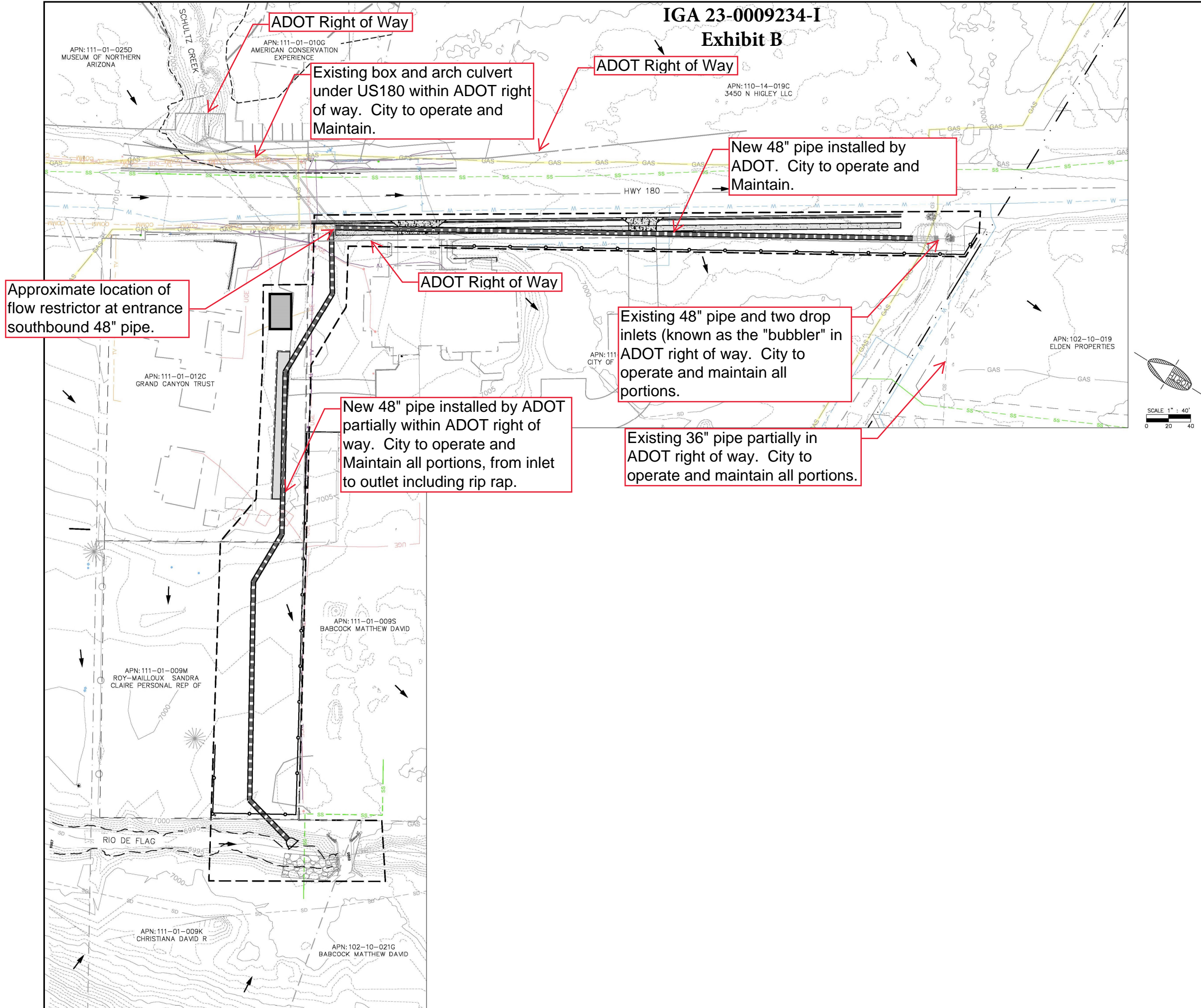
CHANNEL OUTLET 2
NO SCALE EX01

PRELIMINARY
STEPHEN C.
NOTE FOR CONSTRUCTION,
BIDDING OR RECORDING
ARIZONA, USA

DRAWING NO. **EX01**
SHT NO. 1 OF 1

PLOTTED: Jun 22, 2023 - 4:51pm
FILE: P:\2023\223008\DRAWINGS\TEMP FIRE CHANNEL\OPTION 1 FIRE DEPT.CHANNEL.DWG HSCINGEBLEN

IGA 23-0009234-I
Exhibit B





CITY OF FLAGSTAFF

Exhibit C

OFFICE OF THE CITY MANAGER

211 West Aspen Avenue, Flagstaff, Arizona 86001

Main Line: 928-213-2000

Website: <https://www.flagstaff.az.gov>

May 30, 2023

Brenden Foley, P.E.
District Administrator, Northcentral District
ADOT
bfoley@azdot.gov

Dear Mr. Foley,

Attached to this letter is a proposed concept plan to provide temporary diversion of Schultz flows from the Hwy 180 culvert to the Rio de Flag channel to the west. The City of Flagstaff ("City") has successfully acquired rights of entry for all the parcels depicted on the plan to allow for construction to commence immediately.

With respect to the 48" CMP Replacement pipeline that parallels Hwy 180, ADOT is proceeding to replace this pipeline as it is in a state of disrepair. It is noted that the City initially requested that this pipeline be downsized to 36" to enable increased flow of stormwater into the temporary diversion infrastructure shown on the plan. In response, ADOT has agreed, as an alternative to downsizing the pipe, to install a flow restricting device to be constructed inside the box extension at the inlet to the existing 48" pipe.

The City agrees to accept all liability associated with this change, as the ultimate impacts of this modification are untested. The City agrees to remove the flow restriction device, if needed and agreed upon mutually between City and ADOT. Additionally, the City agrees to assume maintenance responsibility of both the temporary and future permanent infrastructure at this location. With respect to the permanent infrastructure, the City, having received \$8.9 million in legislative appropriations in the 2024 budget, shall design and construct permanent improvements to accommodate the Schultz Creek drainages. Such improvements will be constructed within the ADOT Right of Way under an encroachment permit issued by the Northcentral District.

The City agrees to execute an IGA as soon as possible and preferably prior to City Council recess for the 2023 summer, which shall formalize the above agreements.

Greg Clifton,

City Manager, City of Flagstaff